

Planning applications: A faster and more responsive system

Final Report

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Foreword

The planning system is hugely important to us all and the process by which planning applications are actually dealt with within this system is a key component. This process helps to deliver critically important objectives, such as providing places to live and places to work for our growing population, delivering regeneration, tackling climate change and protecting our natural and historic environment. But it is also about helping individual citizens who want to improve the place that matters most to them – their home.

We would probably all agree that we need a process that helps balance these competing pressures within a strong democratic framework, but one that works well, and delivers the right decisions in a fair, transparent and timely way.

Yet, as we noted in our *Call for Solutions*, published back in June 2008, over recent years the system has had to cope with increasing complexity from an ever widening range of policy objectives that Government expects planning to deliver, a sharply increased number of applications (mainly from householders), a continued skill and resource shortage, and growing public awareness and interest in the development and use of land.

It is hardly surprising, therefore, that we found wide frustration on the part of applicants, councils, interest groups and consultees about how the current applications process was operating and, to varying degrees, about how slow, unpredictable, and costly it had become for all involved.

Our supporting research looked at 64 individual case studies of major developments. This revealed that over half encountered substantial problems, such as significant blockages and delays, during the processing of their planning applications.

Of course, these problems can have a wider impact, including damaging our ability to compete internationally for new inward investment. New World Bank statistics show the UK is the 6th most attractive economy to invest in overall, yet is only 61st in relation to planning and building licenses.

Given this context, the purpose of our review, was clear: we needed to identify and eliminate needless bureaucracy, root out unnecessary complexity, and make the system more responsive and customer focused, but in way that is consistent with the principles of, and objectives for, the planning system.

To this end, our wide discussions with stakeholders were very encouraging. Not only was there much common ground about what the key issues were with the planning application process, but also a genuine willingness to explore how they might be tackled.

We have set out 17 main recommendations. Each covers a key issue where improvement is needed, in many cases drawing upon existing good practice. In some instances the recommendations comprise a number of different action points and we have indicated who we believe should take forward each point.

The recommendations are grouped into the key themes we identified in the Call for Solutions. Put simply we recommend:

- **The process is made more proportionate** with more permitted development and streamlined processes for small scale development and streamlined information requirements where full planning permission is required;
- **The process is improved** particularly in relation to pre-application and post decision stages, where some significant problems currently exist;
- **Engagement is made more effective** by improvements in the way elected members, statutory and non statutory consultees and the wider community are involved in the process;
- **Changes in culture are encouraged** by replacing time-based performance targets with a measure of customer satisfaction and by seeking ways to reward better quality applications; and
- **Unnecessary complexity is removed** by making the national policy and legislative framework clearer, simpler and more proportionate.

These recommendations have the potential to remove about 15,000 applications from the system, with a further 16,500 subject to a simpler and faster process. Our recommendations will free up planning officers and elected members to focus on more important applications, it will allow more effective engagement with interest groups and consultees. They should also yield savings, for both applicants and local planning authorities, of almost £300 million each year which should, in turn, release resources for improving the experience of all those involved in the process.

We believe that the recent economic difficulties, and the very challenging outlook, have strongly reinforced the need to have a leaner, more effective and faster applications process that is more responsive to the needs of all users.

With that in mind, we believe that we have developed an ambitious, but deliverable, package of measures which can produce wide benefits. They will provide for a re-energised and much improved planning applications process, that will help speed up economic recovery, and help to ensure that we get the right development, in the right place and at the right time. We firmly believe our recommendations, if implemented, should be viewed not as to an end to planning reform, but as part of an on-going process of reform. We urge Government to act on them now.

Finally, our sincere thanks go to the members of our Sounding Board, our tireless Secretariat, and to the many stakeholders who took part in discussions and events throughout the whole review and across the nine English regions. Their commitment and contribution to our work was substantial and very much appreciated.



Joanna Killian



David Pretty

Executive Summary

Our purpose

In the 60 years since the post-war government introduced the planning framework as we know it, it has constantly adapted to meet the challenges of a changing world.

In recent years, the Government has sought to modernise the planning system further to meet the unprecedented pressures of the twenty-first century – from a truly global trading system, to rapid demographic shifts, to climate change. This has led, among other things, to the 2007 Planning White Paper, and subsequent Planning Bill.

This report is the next step in the process of modernisation. We were asked to look objectively at the planning application process, to identify how it could be further improved, and in particular to consider ways to reduce unnecessary bureaucracy, making the process swifter and more effective for the benefit of all users. Our full terms of reference are at Annex A.

Very early on in the review, a strong consensus emerged among all stakeholders, ranging from local authorities to businesses and civic groups, about what the planning system should deliver. It should be customer-focused, fair, proportionate and transparent. It should allow for local people to have a meaningful say. It should deliver the right decisions with appropriate speed.

Equally, a consensus soon became clear that, despite considerable improvements, the process was not working well enough. Planning decisions still take longer in the UK than in other countries with which we compete internationally¹. And alarmingly, it is often the developments which could do the most to boost local economies, provide much needed-homes or help tackle climate change that are subject to the greatest delays. 10% of major developments² are typically delayed by a year or more. In addition, the need to obtain planning permission for sometimes very minor changes can place unnecessary barriers in the way of expansion for businesses, large and small. These barriers include extra costs and delays and can be out of all proportion to the risks of development.

However, if stakeholders were vocal about the shortcomings of the current system, they were also able to provide a wealth of suggestions for remedying them. We have carefully considered these ideas in developing our recommendations.

This review sets out the result: 17 detailed recommendations designed to make the application planning process swifter, more efficient and more effective for all users.

The world has changed even in the few months since we began this review. The current global financial turbulence has already caused many local authorities and developers to reassess their priorities. Yet reducing unnecessary bureaucracy and delays will benefit local economies, which is

¹ World Bank (2008) *Doing Business 2009*

² Major

• For dwellings, a major development is one where the number of dwellings to be constructed is 10 or more, or where the site area is 0.5 hectares or more.

• For all other uses, a major development is one where the floorspace to be built is 1,000 square metres or more, or where the site area is 1 hectare or more.

Minor development is development which is smaller than major development (see above) but is not change of use or householder development.

Other development includes change of use and householder developments, as well as other smaller scale developments such as those relating to advertisements, conservation area and listed building consents, and applications for certificates of lawful development.

particularly welcome in tougher times. And in the longer term, as prospects improve, it could play an important part in helping businesses and communities recover. In sum, improving the planning application process – and by extension, this report and its recommendations – has never been more relevant.

The key areas of concern with the current process

In the first stage of this review we sought the views of a wide range of stakeholders who have first hand experience of the planning application process. The findings were set out in our “Call for Solutions” document published in June 2008. The discussions revealed quite a complex range of issues and concerns, many of which were interrelated, and for which all parties must share responsibility to a greater or lesser extent, including central government, councils, those consulted on applications, and applicants themselves. We were able to identify five key areas of concern, namely:

- a) **Proportionality** – in particular, that the requirements and process in relation to many smaller scale developments were not proportionate or reasonable in relation to the scale of development or its impact;
- b) **Process** – some stages in the process were particularly problematic, namely, the pre-application stage and discharging of conditions following the grant of planning permission;
- c) **Engagement** – that the involvement of some key parties, in particular elected members and some statutory and non statutory consultees, was not working effectively;
- d) **Culture** – in particular, that the current target regime is having some harmful, unintended, effects on behaviours and outcomes; and
- e) **Complexity** – in particular, the national policy framework and the complexity of the legislation governing the consideration of applications.

Developing solutions to address the concerns

Since the publication of the Call for Solutions document, we have carried out a further round of extensive stakeholder engagement around the country and with individual groups or sectors to discuss how we might address these key areas of concern. We also had over 150 written responses to our Call for Solutions document. In parallel, we also commissioned separate research:

- to carry out 64 detailed case studies identifying the causes of delays with the processing of applications for major developments and highlighting good practice;
- to better understand the needs of users for guidance on the planning application process; and
- jointly with the Department for Communities and Local Government (CLG) into the information being requested by local planning authorities in support of planning applications.

We have also taken account of the findings of a study by the National Audit Office which is being published at approximately the same time as this review. This has looked at the effect on the planning application process of the Government's target regime and its link to planning delivery grant, with a focus on housing delivery where it is most needed. In addition, we have drawn on research by White Young Green³, commissioned by CLG and published alongside this report, which reviewed the opportunities for improving the processes in relation minor commercial and other non householder development.

How our recommended solutions will make the system work better for everyone

We have drawn extensively from the wealth of information and advice we have received in developing our recommendations. The recommendations are set out in full at the end of the Executive Summary. We consider here how these recommendations will bring benefits to all users by reference back to the five key areas of concern.

Making the process more proportionate

Recommendations 1, 2 and 3 have two principal aims:

- to make the process simpler for small scale, low impact developments; and
- to free up resources to deal better with the larger developments which will make the biggest contribution to the future development of the area.

The vast majority of applications (97%) in England are for householder, minor, or other small scale development. These types of application dominate the caseload of most local planning authorities. We are concerned that too much of the limited resources of local planning authorities is being spent on these, making the process excessively burdensome for low impact developments and leaving too few resources for the much smaller number of major developments.

Recommendation 1 sets out measures for:

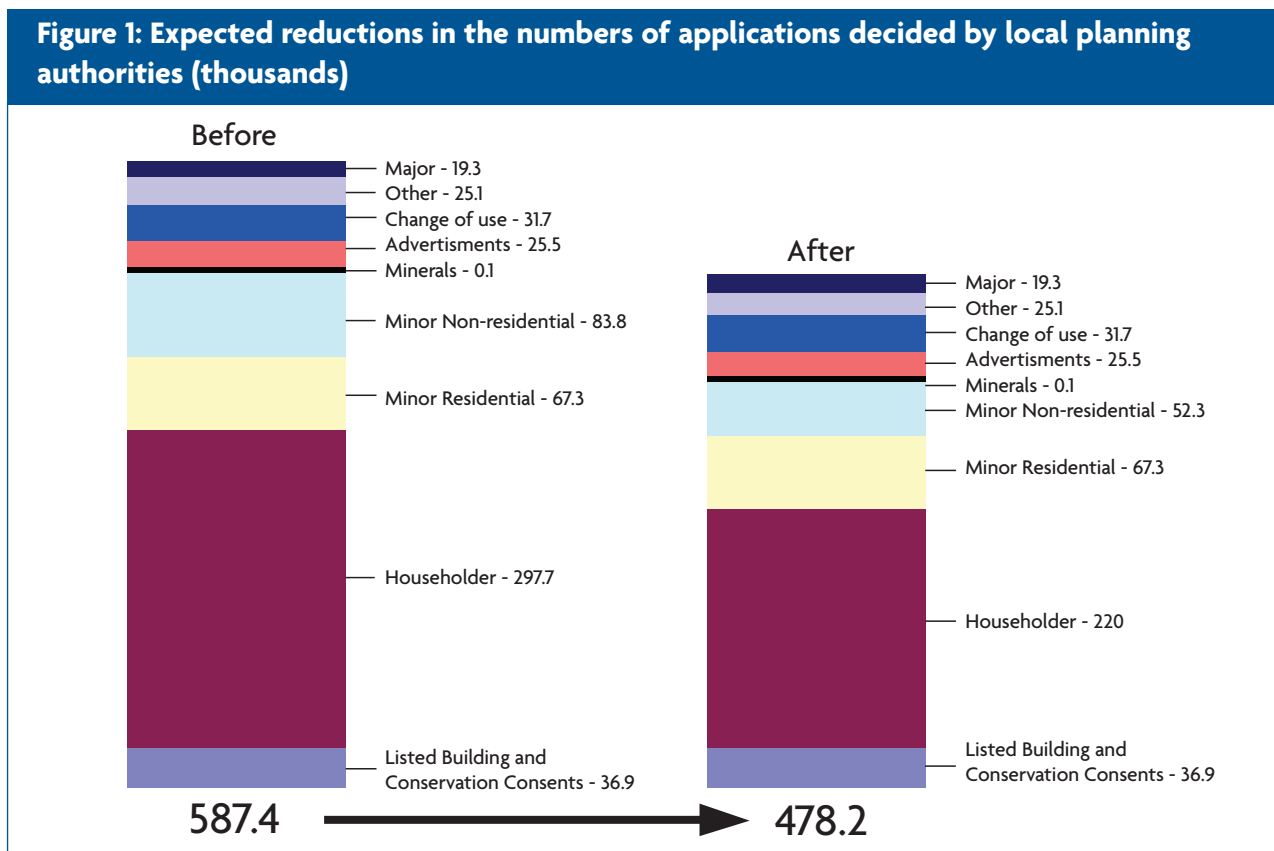
- considerably expanding the scope of permitted development for non householder development. We expect this to remove 15,000 minor commercial and other non residential developments per year from the need to obtain planning permission. Typically, this will apply to small scale changes, such as minor extensions and alterations, and would particularly benefit small shops and offices, as well as day nurseries, leisure facilities and public buildings, including schools, universities and hospitals;

³ White Young Green Planning (2008) *Non Householder Minor Development Consents Review: Final report*. Department for Communities and Local Government. London.

- revising and expanding the existing simpler consenting system (known as prior approval) to make obtaining planning permission simpler for a further 16,500 minor commercial developments, including changes to shopfronts and automated teller machines;
- as well as measures to encourage the use of Local Development Orders and to discourage the restriction of permitted development rights.

These measures will remove nearly 40% (31,500) of minor non-residential developments from the need to apply for full planning permission, saving over £30 million per year in administrative burdens on applicants. While these measures will also reduce the fee income for local planning authorities for these applications, we are also recommending financial incentives (possibly in the form of higher fees) for better performing local planning authorities, and other measures we are proposing will reduce the administrative burdens on their resources, allowing the resources to be better targeted.

Together with the recently introduced extensions to permitted development for householder developments, the measures will reduce the demands on local planning authorities to deal with applications for full planning permission by nearly 20% (see Figure 1 below).



Recommendation 2 sets out measures to considerably reduce information and validation requirements, particularly for householder and minor developments, including:

- a revised and more proportionate approach to Design and Access Statements;
- better guidance on the provision of drawings; and
- substantial changes to the way local lists are drawn up.

These measures will reduce the burdens on applicants from having to provide unnecessary information, and reduce the numbers of applications previously considered to be invalid, thereby reducing the burdens on local planning authorities and speeding up the processing of applications. Fewer information requirements will also enable more applicants to prepare and submit applications without needing the assistance of an agent. If we assume this reduces the use of agents for minor developments by just 10%, this could lead to further administrative burden savings for applicants of around £50 million per year.

Recommendation 3 proposes a range of measures to improve the quality of advice available to users of the planning system. In particular, the Planning Portal and Planning Advisory Service should work closely together to support and encourage local planning authorities to develop a high quality internet based information system which allows members of the public to establish accurately and quickly whether or not planning permission is required for small scale householder and commercial development.

These measures will improve the quality of advice available to those proposing development, reduce the number of enquires local planning authorities have to deal with, and reduce the numbers of applications either for full planning permission or for a Certificate of Lawful Development from applicants unsure whether planning permission is needed.

Making the process more effective

Recommendations 4 to 8 address measures to make the whole end-to-end process work better, particularly for the larger developments, with a focus on identifying and addressing issues at pre-application stage.

Our detailed research on case studies⁴ indicates the scope for improvement. The results are summarised in Figure 2.

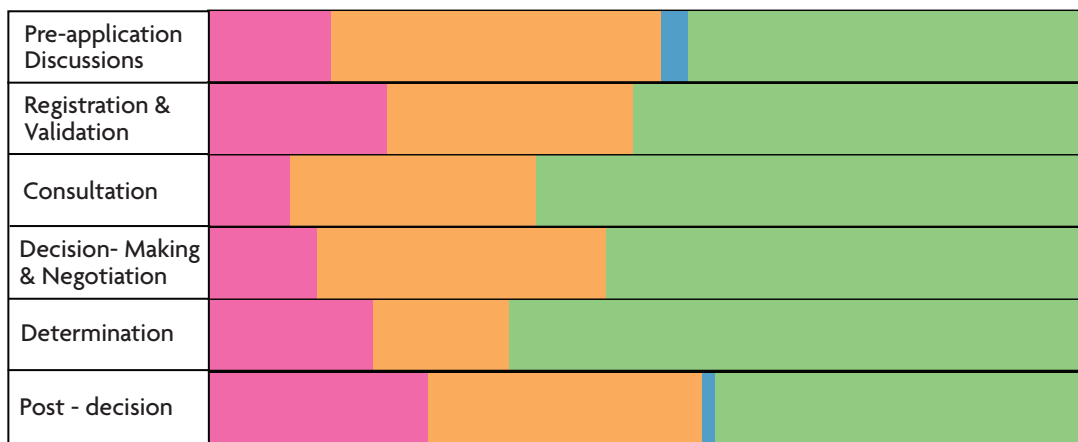
This illustrates the percentage of the 64 major development case studies in which, at each stage of the process, there was either:

- an efficient process with reasonable good practice and no substantial problems (green);

⁴ Addison & Associates and Ove Arup & Partners Ltd (2008) *Killian/Pretty Review: Research Report – Case Studies*. Department for Communities and Local Government, London.

- some significant problems, delays or blockages but with minimal overall effect on the application, or the accumulation of several minor issues (amber); or
- substantial problems causing significant blockage or delay to an application, or exhibiting poor practice (red).

Figure 2: Summary of case study research⁵



This shows that there was a reasonably efficient process (green) at each stage in around half or more of the cases. However, only three out of the 64 cases encountered no problems at any stage (i.e. were green at every stage). The greatest incidence of problems of some degree occurred at pre-application and at post-decision stages, and the most serious problems were more likely to occur at registration and validation and at post-decision stage.

Recommendation 4 sets out a range of improvements to pre-application discussions, including:

- stronger and clearer national policy and guidance, incorporating improvements needed in use of resources, record keeping and consistency of advice;
- a strong presumption that, for major developments, there will be formal pre-application discussions involving, where appropriate, all relevant parties, including elected members, statutory consultees and representatives of the local community;
- greater encouragement of the use of Planning Performance Agreements for major applications;
- better incentives, through revisions to the performance targets; and
- a more consistent approach to charging.

⁵ Blue denotes a reserved matters application (pre-application stage) and a refused application (post-decision stage).

The aim of these measures is to avoid problems later in the process by ensuring that issues are identified at pre-application stage and addressed appropriately in the application and supporting documentation. This will:

- save time for applicants, local planning authorities and statutory consultees;
- improve the quality of schemes, with earlier engagement allowing issues to be addressed at the formative stage of the proposal;
- provide greater certainty for applicants, as timescales appropriate to the scale of the development can be agreed at pre-application stage; and
- reduce delays caused when issues are identified late in the process. Housebuilding and retail sectors, in general, and renewable energy developments, in particular, have been found to encounter the greatest delays. Planning delays have been estimated to cost the UK economy at least £700 million per year, and improvements of just 10% (and the case study research indicates scope for at least this) would save the economy as a whole £70 million per year.

Recommendation 5 supports continuing improvements to the processing of applications, including wide dissemination of the findings of the National Process Improvement Project. Councils which participated in this project have identified savings of between 3 and 13% in the costs of processing planning applications. Given that the costs of development control functions to local authorities have been estimated at around £300 million per year⁶, this suggests the potential for local planning authorities to save altogether between £9 million and £39 million per year.

Recommendation 6 sets out measures to improve the approach to planning conditions, so that unnecessary conditions are avoided and the process of discharging conditions is clearer and more efficient.

The results of our case study research have confirmed the view of many stakeholders that more conditions are now being attached to planning permissions than in the past. This increase is for a number of reasons, including a lack of engagement at pre-application stage, the lack of time to resolve issues because of the time targets regime, and the wish on the part of applicants to leave matters of detail until the principle has been agreed. However, the increasing number of conditions, and the breadth of issues that can be addressed with conditions, then place increasing demands on local planning authority resources to discharge the conditions.

The measures we propose, together with Recommendation 4 on pre-application discussions, will result in:

- the need for fewer conditions;
- reduced demands on local planning authority resources; and

⁶ Department for Communities and Local Government (2007) *Planning Costs and Fees*. London.

- reduced delays associated with the discharge of conditions.

Recommendation 7 sets out measures to improve the negotiation and agreement of planning obligations. A one-off CLG survey in 2006 indicated that these so-called section 106 agreements are responsible for at least 50% of the delays that can occur with processing major developments. Some changes will follow from the introduction of the Community Infrastructure Levy (CIL) as proposed in the Planning Bill, and we recommend that the relationship between CIL and planning obligations needs to be made clear. We also recommend addressing and agreeing issues that would need to be covered by planning obligations much earlier in the process, at pre-application stage, and greater use of standard agreements and clauses.

These measures will:

- reduce demands on council legal services as well as on local planning authority resources;
- reduce delays associated with the negotiation and agreement of planning obligations.

Recommendation 8 proposes that a way is found to avoid the need for a new full application for planning permission to deal with a small, but material change to an existing permission. The need for such an arrangement might arise, for example, where it becomes apparent that it is necessary to change the location of a building on a major development by a small distance, but where such a change would have no discernable impact on a third party or other interest of acknowledged importance, although it would constitute a material change to the approved scheme. This recommendation is likely to require primary legislation, but would allow a more proportionate approach to be taken for small changes.

Improving engagement

Recommendations 9 to 12 address three key areas where engagement with third parties needs to be improved, namely in relation to statutory and non-statutory consultees, elected members, and the wider community.

Recommendation 9 sets out a number of measures to improve the involvement of statutory and non-statutory consultees, including, in particular:

- a fundamental overhaul of the arrangements for nationally defined consultation – with all such consultees needing to meet a coherent, consistent set of criteria and all identified in a single list;
- a clear re-statement of the roles of the local planning authority and statutory consultee, to reinforce the primacy of the decision making role of the local planning authority, and the ability of the local planning authority to make a decision after a defined timescale in the absence of a response from the statutory consultee;

- introducing an expectation that, where an application received is fully in line with the Local Development Framework, on which they have already been consulted, planning authorities should only consult statutory consultees on those details that have not already been subject to consultation;
- clearer guidance provided by the consultee about when the local planning authority should undertake consultation and clearer expectations of how a consultee is expected to respond.

A CLG survey conducted in 2006 indicates that issues associated with consultation could account for 5-10% of the delays encountered by major developments. Our full report also presents evidence demonstrating considerable over-consultation on some issues (e.g. one local planning authority was able to reduce the percentage of applications sent to the local highway authority for consultation by 50% through the introduction of clearer guidelines over the need for consultation).

These measures can therefore be expected to:

- considerably reduce the demands placed on the resources of local planning authorities and statutory consultees from unnecessary consultation (estimated to amount to at least £30 million in unnecessary administrative costs for local planning authorities and consultees);
- free up the resources of statutory consultees to enable improvements in the quality of their responses, particularly by improving engagement at pre-application stage;
- reduce the need for unnecessary information and assessments in support of applications; and
- reduce the delays due to consultation (which can be estimated to cost the economy at least £35 million per year).

Recommendation 10 sets out measures to improve the engagement of elected members, specifically to:

- ensure all councillors are empowered through appropriate training on planning matters;
- make absolutely clear that councillors can take part in pre-application discussions, provided these are conducted according to a clear and well structured format; and
- encourage delegation rates of at least 90% in every council.

In addition, we believe that, in order to ensure the involvement of councillors is effective, there is scope for planning officers to improve their understanding of the role of councillors in planning and their skills in managing their relationships with councillors.

These measures will:

- reduce inefficiencies because of confusion about the role of elected members;
- improve the quality of pre-application discussions and thereby improve the quality of applications; and

- help elected members focus their resources on the more significant developments.

Recommendation 11 sets out measures to improve the engagement of the local community, specifically that:

- some of the funding proposed in the recent White Paper on empowerment⁷ should be used to improve community engagement in the planning application process, particularly at the pre-application stage;
- councils should be given greater freedom over how they should publicise new planning applications, by no longer being required to publish notices for certain applications in newspapers.

These measures will:

- improve the effectiveness of pre-application discussions and the involvement of the local community at this stage;
- give local authorities flexibility to spend the estimated £15 million per year currently spent on newspaper advertisements in the way they see fit to best engage their local communities.

Recommendation 12 sets out measures to encourage greater use of alternative dispute resolution approaches throughout the process and proposes further study into the potential benefits of formal mediation as an alternative to appeal or to resolve issues within an appeal.

Greater use of alternative dispute resolution could avoid costly and time-consuming disputes at every stage of the process. We also believe there is scope for reducing the demands on the resources of the Planning Inspectorate (PINS) through avoiding the need for an appeal in some instances.

Achieving changes in culture

Recommendations 13 to 15 aim to provide better incentives to encourage the right behaviours among applicants, agents and local planning authorities. Realising the full benefits of our recommendations will require changes in culture. We need to find ways to encourage higher quality applications, to ensure that the likely on-going shortages of skills and resources in planning departments do not adversely affect the planning service, and to provide better incentives for the efficient and effective handling of planning applications than the current time-based performance targets.

Recommendation 13 sets out measures aimed at improving the standard of applications submitted, in particular the development of an “accredited agents” scheme for householder and minor developments. This will reduce the demands on local planning authority resources by reducing the numbers of unacceptable applications they need to deal with. It will also reduce delays in the

⁷ Department for Communities and Local Government (2008) *Communities in Control: Real people, real power*. London

processing of applications because more will be right first time.

Recommendation 14 addresses the shortage of resources and skills in council planning departments. This issue has recently been considered by the House of Commons Select Committee on Communities and Local Government. Additional measures we propose include encouraging better use of support staff, including technicians, and making the most use of opportunities for joint working. We also strongly encourage local authorities not to make any dramatic reductions in the number of planning staff in reaction to the changing economic conditions, but instead to refocus resources on reorganisation, to deliver a more positive and proactive approach to development management, and on the preparation of the Local Development Framework, and, in particular, the core strategy, where this has not already been completed. This will ensure that local planning authorities are in a good position to respond to the recovery when it arrives, to the benefit of all.

Recommendation 15 sets out proposals for revisions to the timescale based performance targets. We think it is right to maintain a target for the handling of planning applications, but feel that this should also focus on the overall quality of service provided by councils in handling applications, rather than simply on the time taken. We therefore recommend that the current time-target based National Indicator is replaced with a new “Satisfaction with the planning application service” National Indicator. This indicator would measure customer satisfaction, including satisfaction with timeliness, for all types of application. In addition, we recommend the Government explores ways of providing financial incentives to councils that perform well and deliver high levels of satisfaction, either by allowing them to charge higher planning application fees, or through revisions to Housing and Planning Delivery Grant (HPDG).

This recommendation will overcome the perverse consequences of the current time-based targets without losing the benefits that the incentives to improve timeliness have delivered. The aim is to incentivise the implementation of other improvements we recommend, in particular improving the pre-application stage.

Tackling Complexity

Recommendations 16 and 17 then deal with some of the key underlying causes of many of the issues we have identified. In particular, much of the unnecessary complexity of the planning application process is rooted in the national planning policy and legislative framework, and this is an area that must be addressed, if real improvements are to be achieved.

We are also very concerned at the ability of the planning system to cope effectively with the continued expansion of the Government objectives it must help deliver. We think that enough is enough. It is time to remove duplicative objectives, and to call a halt to ad hoc additions of objectives, unless there is a very strong and compelling case for doing so.

Recommendation 16 sets out measures to prevent further unnecessary expansion of national policy objectives to be delivered through the planning system and to remove duplication with other

regulatory regimes. It proposes:

- to use the planning policy review announced in the Planning White Paper to remove objectives which duplicate other controls, and ensure no additional policy objectives are added, unless there is a strong and compelling case to do so when tested against a set of challenging criteria;
- more effective challenge of impact assessments which involve the imposition of new burdens on the planning system; and
- full funding of the additional burdens imposed by Government Departments.

Recommendation 17 then sets out measures to substantially overhaul and simplify both the national planning policy framework and the secondary legislation for the processing of planning applications. In particular, it proposes:

- a national policy framework that is focused on the needs of the user;
- clarity about the scope of elements of the policy framework and about whether requirements for supplementary assessments or information are proportionate;
- consolidation and simplification of the legislative framework, in particular, the General Development Procedure Order (GDPO) to remove unnecessary prescription and detail;
- clear national policy guidance on the new development management approach; and
- effective, helpful and clear plan-based guidance for householder and minor developments, to be prepared once key Development Plan Documents are in place.

The measures set out in these final two recommendations will enable faster and more effective handling of applications by reducing the inherent complexity in the process, which is estimated to cost applicants £750 million per year in consultants and legal fees. Assuming a 10% reduction in complexity would therefore save applicants £75 million. In addition, we estimate that a similar

reduction in complexity could save local authorities £30 million per year.

Overall impacts

We believe our recommendations will benefit everyone involved in the process, as indicated in the table below.

<p>Householder</p> <ul style="list-style-type: none"> • Clearer, simpler, more accessible advice on: <ul style="list-style-type: none"> – whether an application is needed (or whether development is permitted) – what information needs to be provided with an application • Fewer, more proportionate information requirements • Quicker process for applications submitted via an accredited agent <p>In addition, householders have recently benefited from a significant increase in permitted development.</p>	<p>Recommendation 3</p> <p>Recommendation 2</p> <p>Recommendation 13</p>
<p>Small business</p> <ul style="list-style-type: none"> • Many minor developments to be permitted or subject to streamlined process • Better, more accessible information, including on need for planning permission • Better pre-application engagement • Fewer, more proportionate information requirements • Fewer planning conditions & improved process for discharging them 	<p>Recommendation 1</p> <p>Recommendation 3</p> <p>Recommendation 4</p> <p>Recommendation 2</p> <p>Recommendation 6</p>

<p>Major developer</p>	<p>Recommendation 4</p>
<ul style="list-style-type: none"> Improved availability and quality of pre-application discussions 	<p>Recommendation 17</p>
<ul style="list-style-type: none"> Clearer national policy framework and process requirements 	<p>Recommendations 2 and 17</p>
<ul style="list-style-type: none"> Greater clarity about supplementary information requirements 	<p>Recommendations 4 and 5</p>
<ul style="list-style-type: none"> Improved handling of applications 	<p>Recommendations 4 and 9</p>
<ul style="list-style-type: none"> Improved processes for consultation 	<p>Recommendation 6</p>
<ul style="list-style-type: none"> Fewer planning conditions & improved processes for discharging them 	<p>Recommendation 7</p>
<ul style="list-style-type: none"> Streamlined process for dealing with planning obligations 	<p>Recommendation 8</p>
<ul style="list-style-type: none"> Streamlined process for dealing with minor modifications of permission 	<p>Recommendation 12</p>
<ul style="list-style-type: none"> Speedier resolution of disputed decisions through formal mediation 	
<p>Local councils</p>	
<ul style="list-style-type: none"> Councillors more empowered through effective training and clarity of role 	<p>Recommendation 10</p>
<ul style="list-style-type: none"> Councillors more actively involved in influencing planning applications at formative, pre-application stage 	<p>Recommendations 4 and 10</p>
<ul style="list-style-type: none"> Fewer additional national policy considerations – with additional resources where added 	<p>Recommendation 16</p>
<ul style="list-style-type: none"> Simpler statutory processes with more freedom to tailor to local needs 	<p>Recommendation 17</p>
<ul style="list-style-type: none"> Clearer national policy framework 	<p>Recommendation 17</p>
<ul style="list-style-type: none"> Higher quality applications submitted by agents 	<p>Recommendation 13</p>
<ul style="list-style-type: none"> Better support for developing skills, better use of existing staff resources 	<p>Recommendation 14</p>
<ul style="list-style-type: none"> More flexibility to negotiate useful improvements to applications 	<p>Recommendations 4 and 5</p>

Statutory consultees	<ul style="list-style-type: none"> • Better use of available resources • Significant reduction in numbers of applications received on which consultation is unnecessary • More opportunities to provide input at pre-application stage and ensure better designed developments 	<p>Recommendation 9</p> <p>Recommendation 9</p> <p>Recommendations 4 and 9</p>
Communities and citizens	<ul style="list-style-type: none"> • Better, more accessible information, on a range of planning application issues • Better approaches to dispute resolution • More effective engagement at pre-application stage for major applications • Better tailored local consultation process • Clearer statements of national policy and process 	<p>Recommendations 3, 6, 11 and 13</p> <p>Recommendation 12</p> <p>Recommendations 4 and 11</p> <p>Recommendation 11</p> <p>Recommendation 17</p>

Overall cost savings

Where it has been possible to quantify the benefits, we have attempted to do so, and the table below summarises the indicative overall savings. These figures need to be treated with some caution, as they are based on very general assumptions.

Reductions in costs for applicants	£30 million p.a. £50 million p.a. £75 million p.a. > £150 million p.a. total	Recommendation 1 Recommendation 2 Mainly recommendations 16 and 17
Reductions in burdens on local planning authorities and statutory consultees	>£9 million p.a. £30 million p.a. £30 million p.a. ~ £70 million p.a. total	Recommendation 5 Recommendation 9 Recommendation 17
Reductions in costs to UK economy of delays	£70 million p.a.	Mainly recommendations 4 – 11, plus others

Recommendations

MAKING THE SYSTEM MORE PROPORTIONATE – to make the process simpler for small scale, low impact developments; and to free up resources to deal better with the larger developments which will make the biggest contribution to the future development of the area.

Recommendation 1 – Government should take the following steps to reduce the number of minor applications that require full planning permission:

- substantially increasing the number of small scale, commercial developments and other minor non residential developments that are treated as permitted development. Based on the detailed work undertaken, we would expect this measure to reduce the number of such proposals, such as small scale extensions and alterations to business premises, by about 18%, although Government should also consult on the scope for extending permitted development further, for example, in relation to plant and equipment, and allowing opportunities for small scale renewable facilities on non domestic buildings and land;
- ensuring that permitted development rights for new development are not restricted by condition at the time of the grant of planning permission, other than in exceptional circumstances;
- providing additional support for local authorities to increase permitted development opportunities locally, through the use of pilot Local Development Orders for areas, such as large hospital or university sites, where greater flexibility regarding small scale development may be appropriate;
- revising and expanding the prior approval process so as to provide a proportionate intermediate approach for appropriate forms of non residential development. Based on the detailed work undertaken, we would expect this measure to mean that nearly 20% of minor commercial and other minor non residential developments, such as replacement shop fronts and automated teller machines, would be subject to this expedited process.

Recommendation 2 – Government should make the information requirements for all planning applications clearer, simpler and more proportionate, removing unnecessary requirements, particularly for small scale householder and minor development, by:

- removing the detailed requirements for the content of a Design and Access Statement from statutory regulation;
- revising national guidance on the validation of planning applications to emphasise that local planning authorities must not ask for more information than they need (for example detailed plans should only be provided where they are necessary);
- consulting on the removal of the mandatory requirement to sign an Agricultural Holdings Certificate for most applications;

And, specifically in relation to local information lists, by:

- abandoning any attempt to define local lists nationally;
- revising national guidance to:
 - set out a clear expectation that councils should publish clear and simple local lists covering most types of development;
 - acknowledge that lists cannot cover every type of development and that, where major or unusual development is proposed, pre-application discussions about the type and scale of information required should be the norm;
 - clearly acknowledge the discretion councils have to decide what information is necessary to determine an application, and stress the responsibility incumbent on councils to ensure that their information requirements are clear, justified and proportionate.
- setting out revised and improved guidance to councils on any national policy requirements that need to be considered in developing local lists; and
- establishing an effective process of auditing the local lists to ensure that they are clear, justified and proportionate.

In addition:

- local planning authorities should not be required to consider documents of excessive length in support of applications. Government, working closely with representatives of local government and those who submit large scale applications, should identify how clear limits on the size of documents could be achieved.

Recommendation 3 – Government, local planning authorities and others should take the following steps to improve the quality of advice available for all users of the planning system:

- Government and local planning authorities should review the information they make available to the public on planning matters, having regard to the findings of the research we have undertaken, to ensure that they provide the advice that applicants need in a readily accessible form;
- the Planning Portal should assist in this review process by identifying and publicising existing exemplary good practice by local planning authorities;
- CLG should improve the accessibility of its website on planning matters and ensure effective links are maintained between it and the Planning Portal site; and
- the Planning Portal and Planning Advisory Service should work together to support and encourage local planning authorities to develop a high quality internet based information system which allows members of the public to establish accurately and quickly whether or not planning permission is required for small scale householder and commercial development.

MAKING THE PROCESS MORE EFFECTIVE – to make the whole process, from the start of pre-application stage until the discharge of the final planning conditions, work better, particularly for the larger developments. There should be a focus on identifying and addressing issues at the pre-application stage.

Recommendation 4 – Government, local planning authorities and others should take the following steps to substantially improve the critically important pre-application stage of the application process, in order to improve the quality of the application and to avoid problems and delays at later stages:

- Government should strengthen and clarify national policy and guidance, so as to set out clearly its key expectations from applicants, statutory consultees and local planning authorities in the pre-application process;
- this policy and guidance should be based on the presumption that, for major developments, there will be formal pre-application discussions involving, where appropriate, all relevant parties, including elected members, statutory consultees and representatives of the local community;
- Government should further encourage the use of Planning Performance Agreements (PPAs) for major developments by making it clear that a proportionate approach to PPAs is acceptable. Thus for smaller and less complex schemes, a much simpler approach to a PPA, centred around an agreed timetable, may be all that is required;
- each local planning authority should publish a statement or Code of Good Practice, clearly setting out the range of guidance and opportunities that it offers for pre-application advice, what is required or expected from potential applicants and detailed information on what will be delivered where there is a charging regime;
- appropriate professional bodies and stakeholders should jointly develop guidance for those councils which charge for pre-application advice, so as to introduce a more measured and consistent approach to charging across the country;
- Government should introduce a new performance framework, replacing the existing time targets, in which the availability and quality of pre-application advice is measured, and good performance by local planning authorities rewarded (see also Recommendation 15).

Recommendation 5 – Government should continue to invest in facilitating and encouraging improvements in the processing of applications by local planning authorities through:

- the Planning Portal taking forward its programme of work to allow greater consultation electronically on planning applications, rather than by paper; and
- working with the pilot local authorities who participated to ensure wide dissemination of the findings of the National Process Improvement Project on the application process, due to be

published shortly, which identifies the opportunities for financial savings and the improved customer experience and satisfaction that are possible with a business process improvement approach; and encouragement to local planning authorities to take them up through experience sharing networks.

Recommendation 6 – Government should comprehensively improve the approach to planning conditions to ensure that conditions are only imposed if justified, and that the processes for discharging conditions are made clearer and faster by:

- comprehensively updating national policy on conditions, including stronger guidance on the need to ensure conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects (the 6 tests);
- revising and updating national guidance on model conditions, including clear examples of where conditions should not be imposed to avoid duplication with other statutory controls (see also Recommendation 16);
- for major applications, requiring local planning authorities to provide applicants with draft conditions at least 10 days before a decision is expected and to consider responses from applicants before conditions are imposed;
- requiring local planning authorities to produce a structured decision notice, which groups the different types of condition into those that must be: discharged before commencement; discharged before occupation; or require action or monitoring after completion;
- requiring local planning authorities to place a copy of the decision notice and all conditions on their websites within two working days of formal planning permission being issued;
- develop workable proposals for speeding up the discharge of conditions involving, for example:
 - the use of approved contractors to assist local planning authorities to discharge and monitor conditions;
 - the potential for a default approval of a condition, if not decided within a fixed time period;
 - a fast track appeal process for matters only concerned with the discharge of conditions.

Recommendation 7 – To reduce the time taken to agree planning obligations (section 106 agreements), Government should produce proposals for scaling back the use of planning obligations in the context of the introduction of the new Community Infrastructure Levy (CIL) and for further improving the process leading to an agreement, by:

- rewriting Government guidance to clarify the relationship between CIL and planning obligations, including scaling back the use of section 106; the use of planning (including Grampian) conditions and section 106 agreements; and contract validity and complexity issues.

In addition, to provide certainty for both applicant and authority and reduce the time taken to reach a finalised section 106 agreement, Government guidance should include a clear expectation that:

- local planning authorities should ensure good pre-application information is available, consisting of published standard agreements and clauses, transparent formulae, unambiguous Local Development Framework policies and effective pre-application discussion;
- applicants should submit draft Heads of Terms for any section 106 agreement at the same time as the application is submitted;
- section 106 agreements should use standard agreements, clauses and formulae wherever possible.

Recommendation 8 – Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted, by:

- amending primary legislation, if required, so as to allow:
 - discretion for a local planning authority to vary an existing permission where it considers that the variation is not a significant material change. This change should be supported by guidance for applicants and local planning authorities as to what does (and does not) constitute a minor amendment;
 - a simple and quick process, using the Standard Application Form, to deal only with minor amendments.

IMPROVING ENGAGEMENT – to provide more effective engagement in the planning application process by elected members, statutory and non statutory consultees and the wider community and to focus attention on the proposals with the greatest impact on the future development of the area.

Recommendation 9 – Government should clarify and improve the process for consulting on applications so that it is clearer which organisations need to be consulted, when they must be consulted and why, what response is required, and how the response should be taken into account in the decision by the local planning authority, by:

- using the opportunity of a planned review of consultation arrangements to carry out a fundamental review of all of the arrangements for statutory and non-statutory consultation;
- including all consultees identified at national level in a single unified list of statutory consultees;
- drawing up a coherent, consistent set of criteria which organisations would need to satisfy to become a nationally defined statutory consultee in the planning process;

- introducing an expectation that, where an application is received which is fully in line with the Local Development Framework, on which they have already been consulted, planning authorities should only consult statutory consultees on those details that have not already been subject to consultation;
- setting out a clear re-statement of the roles of local planning authority and consultee in the planning application process and, in particular, the primacy of the local planning authority in determining the application;
- allowing nationally defined statutory consultees greater flexibility to indicate the strength of any concerns when providing advice to the local planning authority;
- requiring nationally defined statutory consultees to report, not only on the timeliness of their responses, but also on the nature of their advice, by publishing annual returns on their websites;
- requiring nationally defined statutory consultees to provide better guidance to local planning authorities, including clear criteria and thresholds on when they must be consulted;
- requiring that, for developments where they would be consulted at application stage, nationally defined statutory consultees ensure they make the resources available to engage in meaningful pre-application discussions; and
- in the forthcoming review of the award of costs circular, clarifying the situation over the award of costs against statutory consultees to penalise unreasonable behaviour on the part of a statutory consultee.

Recommendation 10 – That the input of elected council members into the planning application process needs to be better targeted on those developments which will make the greatest contribution to the future development of the area.

To achieve this:

- local planning authorities should strongly encourage all new councillors to attend training on the role of elected members as decision makers in the planning application process, complemented by continuing regular training, including refresher courses for more experienced councillors;
- the councillor with strategic responsibility for planning should be encouraged to be a member of the planning committee, to provide improved consistency between planning policy and planning decisions;
- local planning authorities should review and update their local schemes of delegation, so that the resources of planning committees are focused on applications of major importance or wider significance, and that a minimum delegation rate to officers of at least 90% is achieved at all councils before the end of 2009; and

- local government stakeholders in ethical conduct and planning, such as the Local Government Association, the Standards Board for England, ACSeS and the IDeA should produce clear and authoritative guidance and support to elected members to encourage them to be more actively involved in the pre-application stage of the more significant developments, without prejudicing their decisions or compromising the council. Such guidance and a Model Members' Planning Code should be supported by a single point of contact for case-specific advice.

Recommendation 11 – That to help improve the effectiveness of community engagement:

- applicants for major developments should discuss with the council at an early point in pre-application discussions how best to engage with the local community;
- applicants should report the outcomes from the engagement, so that the community and the authority can easily understand what has been undertaken and how it has influenced the scheme;
- Government should ensure that the additional resources for community engagement in planning identified in the recent Empowerment White Paper are used, in part, to help improve community engagement in the planning application process; and
- local authorities should be given greater autonomy and flexibility to determine the best approaches to use in order to notify the public about planning applications, thus allowing them to decide whether to use local newspapers.

Recommendation 12 – That greater use of alternative dispute resolution approaches should be encouraged at all stages of the planning application process where this can deliver the right decisions in a less adversarial and more cost efficient way.

To achieve this:

- local authorities and applicants should explore opportunities for applying alternative dispute resolution approaches throughout the process; and
- CLG and PINS should carry out a more detailed investigation into the use of formal mediation as a less adversarial and speedy alternative to appeal, to establish whether the potential time and cost savings would justify the costs of introducing such a scheme.

ACHIEVING CHANGES IN CULTURE – to incentivise the right behaviours among applicants, agents and local planning authorities.

Recommendation 13 – Local planning authorities and other bodies should provide greater encouragement and recognition to those agents who prepare good quality applications on behalf of their clients, in order to drive up the standard of applications submitted.

This could be encouraged by:

- RTPI, RICS and RIBA identifying opportunities to encourage good practice for large scale applications;
- the introduction of an “accredited agents” scheme by local planning authorities for householder and other minor development schemes. Early indications from a pilot study suggest such schemes can encourage higher quality applications, which in turn lead to faster decision times and more efficient use of local authority resources.

Recommendation 14 – Government should continue to seek ways, alongside and working with local planning authorities and the professional bodies, to address the shortage of resources and skills in council planning departments.

In particular we would strongly:

- urge the Government, to take forward the programmes and actions set out in its response to the Select Committee on labour shortages and skills in planning, working closely with other key stakeholders in local government, the profession, academia and the private sector;
- commend our other recommendations which will, overall, free-up resource within local authorities that can then be applied to providing the better quality service all users of the planning system require;
- encourage local authorities to make better use of existing resource through ensuring the best possible use of support staff, including technicians, and through fully exploiting opportunities for joint working with other councils and the private sector; and
- urge professional bodies to ensure they provide strong support to help ensure up-to-date and appropriate skills bases across planning.

Recommendation 15 – Government should replace the current approach to targets, which is based simply on the time taken between the submission of, and a decision on, an application by a new, broader and more flexible approach to measuring the whole application process.

In particular, we recommend that:

- the current National Indicator 157, which is based on the 8/13 week time targets, is replaced with a new “Satisfaction with the planning application service” indicator. The indicator would be based on the results of customer satisfaction surveys of applicants for all scales of application. The surveys would consider a range of relevant factors, including the quality of service experienced by the applicant and the timescale for determining the application;
- alongside the introduction of a new indicator, the Government explores the opportunities to provide financial incentives to the authorities that perform well and deliver high levels of satisfaction (either by allowing them to charge higher planning application fees or through changes to the Housing and Planning Delivery Grant).

TACKLING COMPLEXITY – by making the national policy and legislative framework for planning decisions clearer, simpler and more proportionate.

Recommendation 16 – Government should avoid further expansion of national policy objectives to be delivered through the planning system and remove duplication with other regulatory regimes, by:

- using the planning policy review announced in the Planning White Paper to remove objectives which duplicate other controls;
- ensuring that no additional policy objectives are delivered through the planning system, unless there is a strong and compelling case to do so;
- publishing a set of challenging criteria against which it will test any additional policy objectives proposed to be delivered through the planning system.

In addition:

- the Better Regulation Executive (BRE) should thoroughly challenge impact assessments which involve the imposition of any new burden on the planning system, ensuring that they include an assessment of the impact of the additional burden on the whole of the planning system;
- the BRE should work with local planning authorities to ensure that the assessments of the implementation and enforcement burden are realistic;
- Government departments should fully fund the additional burdens imposed; and
- a similarly challenging approach should be taken in regard to the addition of new objectives and information requirements in development plans.

Recommendation 17 – Government should substantially overhaul and simplify both the national planning policy framework and the secondary legislation for the processing of planning applications to provide a clearer framework for a more positive approach to development management and to reduce unnecessary complexity and burdens for all parties engaged in the process.

To achieve this there should be:

- transformation of the national policy framework into one that is focused on the needs of the user, specifically by organising it around the processes of plan making and decision taking, rather than around broad policy objectives;
- clarity about whether any element of the policy framework is a national development control policy and whether or not there is scope for any regional or local flexibility;

- clarity and proportionality about any element of the policy framework which imposes a requirement on an applicant to provide a supplementary impact assessment or further information;
- consolidation and simplification of the existing legislative framework for processing applications, principally the General Development Procedure Order (GDPO), which removes unnecessary prescription and detail;
- as part of the new national policy framework, a clear statement by CLG about the key principles underpinning a move from development control to a development management approach; and
- a recognition by CLG, that as a second priority, after completion of the key Development Plan Documents required by Government to be in place by March 2011, local planning authorities should ensure that there is effective, helpful and clear plan based guidance for those proposing householder and minor development.

1. Introduction

The world has changed since we began this short review

The planning application process is a key component of a planning system that is charged with helping to deliver critically important objectives such as: providing places to live, learn and work; tackling climate change; and protecting the natural and historic environment. For most of us, the planning application process is our first, and often only, experience of land use planning, so how well the process operates critically influences how the planning system, as a whole, is viewed.

As we noted in our Call for Solutions, the planning system has been subjected to considerable review and reform in recent years, yet aspects of the planning application process continue to be a major cause of frustration for businesses and for other users of the system, including local authorities and community groups. The administrative costs of the planning application process alone were estimated to be nearly £1.5 billion in 2006⁸ and the costs to the UK economy of delays caused by planning have been estimated at between £700 million and £2.7 billion⁹ per year. Planning is consistently one of the top six concerns for businesses wishing to invest in the UK. It would not be unexpected if, in the current economic circumstances, with recession looming, there were not renewed calls to simplify the planning application process and reduce the delays the process can involve in order to ease the regulatory burdens on business and help kick-start the economy.

This review started before the extent of the current economic crisis became evident, and we have therefore taken a rather longer term perspective in developing our recommendations. We also recognise that, given the number of recent and ongoing reforms, we are unlikely to be able to offer any “quick fixes”. Our focus has instead been on building on existing and proposed reforms with a view to establishing a planning application process that is fit for purpose for when the economy has recovered. This is one that avoids unnecessary barriers to development, but which also recognises the important role that the planning system plays in giving communities a voice in the future development of their areas, and delivering the many other benefits of planning, including convenient, healthy, attractive environments; the beauty and tranquillity of the countryside; conservation of natural resources; efficient land use patterns; and reliable infrastructure and services.

The nature of our recommendations is such that they are likely, in many cases, to take some months to introduce, but we hope there are some measures that could be implemented quickly. We also recognise that this review is unlikely to be the last word on planning reform. But we believe that we have been able to identify, in some detail, some of the steps that, if implemented, will help deliver a faster and more responsive planning system.

In part, the success of this approach will depend on local planning authorities using the reduction in pressure on resources that the economic downturn provides, not to reduce the size of their development management departments, but to refocus resources on to the preparation and approval of their local development frameworks. This will prove challenging as budgets are squeezed, but is essential if the planning application process is to meet the needs of all users in the future.

⁸ Department for Communities and Local Government (2006) *Administrative Burdens Measurement Final Report*, London
⁹ Barker, Kate (2006a) *Barker Review of Land Use Planning – Interim Report*. HM Treasury, London

But our recommendations have solid foundations

This report sets out our views and recommendations on the issues we raised in the Call for Solutions. It is based on a number of contributions to this review which we have received since we published the Call for Solutions in June, specifically:

- the nearly 160 formal responses that we received to the Call for Solutions from a wide range of stakeholders. A list of those who responded is in Annex B;
- nine multi-stakeholder events held around the country in the nine English regions with the support of the Government regional offices and the regional development agencies. The wide range of stakeholders we met are also listed in Annex B. A summary of the outputs from these events is available in a separate appendix;
- a range of other meetings and discussions with stakeholders to discuss the issues raised in the Call for Solutions, sometimes from a specific sectoral or interest group perspective. These stakeholders are also listed in Annex B;
- research we have commissioned to support this review, including:
 - research which we jointly commissioned with the Department for Communities and Local Government (CLG) into the information being requested by local planning authorities in support of planning applications¹¹;
 - research we have commissioned to carry out 64 detailed case studies identifying the causes of delays with the processing of applications for major developments and highlighting good practice¹¹;
 - a consumer survey we commissioned to better understand the needs of users for guidance on the planning application process¹²;

These research reports are being published alongside this review;

- a report by the National Audit Office (NAO)¹³ which is being published at approximately the same time as this review. This has looked at the effect on the planning application process of the Government's target regime and its link to planning delivery grant, with a focus on housing delivery where it is most needed. We believe that the NAO's 100 case studies combined with our own 64 case studies provide a wealth of evidence on the current operation of the planning application process in practice; and
- a report of research carried out by White Young Green for CLG¹⁴ into the scope for extending permitted development for minor, non-residential developments.

¹⁰ Ove Arup & Partners Ltd and Addison & Associates (2008) *Review of Information Requirements for Planning Applications*. Department for Communities and Local Government, London.

¹¹ Addison & Associates and Ove Arup & Partners Ltd (2008) *Killian and Pretty Review: Research Report 1 – Review of Case Studies Research*. Department for Communities and Local Government, London.

¹² YouGov (2008) *Killian-Pretty Research Report 2 – Availability and Use of Guidance on Planning Applications Survey*. Department for Communities and Local Government, London.

¹³ National Audit Office (2008) *Planning for Homes: Speeding up planning applications for major housing developments in England*. London.

¹⁴ White Young Green Planning (2008) *Non Householder Minor Development Consents Review: Final report*. Department for Communities and Local Government, London.

These inputs have enabled us to consider the issues in the depth and detail necessary to develop robust recommendations.

Evidence on where the biggest problems lie

Our case study research has looked at the causes of delay and best practice in the handling of a range of types of major development. The research found evidence of good practice at all stages of the process and in all of the case study authorities, but also found:

- a lack of consistently good performance amongst the case study authorities;
- pre-application discussions not used as often as best practice would suggest, with evidence that they are hampered by resources issues among local planning authorities and statutory consultees;
- poor filing and record keeping at pre-application stage;
- problems with the quality of applications, partly due to lack of take up by applicants of the offer of pre-application discussions, and to applicants who ignored the advice they had been given, but also because of inconsistencies in the information sought to support the application, and late requests for additional information;
- a risk averse approach leading to over-consultation;
- slow responses to consultation and holding responses from consultees at a late stage; and
- clear inconsistencies in the use and scope of conditions and no clear system of discharging conditions or recording outcomes.

The research concludes that the application of best practice at all stages in the process by all parties consistently could deliver substantial improvements.

Many of our recommendations concern the greater use of best practice on larger developments. But this will require sufficient resources. To help free up resources for these larger, more strategically important developments, we believe that there is a need to reduce the resources spent on the smaller scale developments. This will have the added benefit of making the process simpler for small scale developments. In particular, we would like to remove some of the burdens of the planning process on small business applicants, where the impact of the changes they wish to make will be small on either their neighbours or the wider area.

The first two chapters in this report deal with these two key issues. Subsequent chapters then address cross-cutting themes which affect the entire process. The report is therefore structured as follows:

- making the process more proportionate – to make the process simpler for the large proportion of small scale, low impact developments, but also to free up resources for the large scale, higher impact developments that contribute most to shaping the places we live and work;
- making the process more effective – to streamline the process, particularly for the larger scale developments;
- improving engagement – to enable the process to better deliver development that is in the wider public interest;
- achieving changes in culture – to promote and incentivise best practice; and
- tackling complexity – the root cause of many of the problems with the process.

Our work has shown us that there are some local authorities where the planning application process works well:

- where there is appropriate engagement with all interested parties from the pre-application stage, avoiding time-consuming disputes;
- where applications are handled proportionately, with resources focused on those developments which will make the greatest contribution to the sustainable development of the area;
- where only information needed to determine the application is requested from applicants;
- where clear, simple and consistent advice is available on the process and on the need for planning permission;
- where larger, locally significant projects are handled in a clear and consistent way throughout the process and according to an appropriate, clearly established timetable; and
- in a way which aims to achieve acceptable developments by resolving issues at pre-application stage rather than through conditions.

However, our case studies have highlighted that these practices are far from universal. We hope that our recommendations and, in particular, our proposals for better incentives will enable many more local authorities to offer this level of service. But improvements by local planning authorities are only part of the way forward. Our recommendations require action on the part of all the key parties in the process. National government, consultees (both statutory and non statutory), the wider community and applicants all have a crucial role to play if we are to achieve the improvements needed and we have made recommendations accordingly.

2. Making the process more proportionate

A more proportionate approach to small scale development

We want to see processes for dealing with smaller types of proposals that are clear, fair, proportionate and efficient. This is not only to minimise unnecessary burdens on applicants for smaller developments, but also to ensure that sufficient resources are available to deal efficiently with applications for larger developments.

The vast majority (nearly 97%) of planning applications are for householder, minor or other small scale development. These types of proposal dominate the caseload of most local planning authorities and we have concerns that the burdens imposed on local planning authorities by the sheer numbers of these smaller scale developments too often leave too few resources available to deal appropriately with the much smaller number of large scale developments. For example, we heard repeatedly from stakeholders at our regional events that, when there were pressures on resources, it was pre-application discussions that tended to suffer. Our case study research confirms that problems often arise with major developments as a result of a lack of appropriate resources at pre-application stage. In addition, a strong theme to emerge from our work on the Call for Solutions was a concern that the planning process for small scale developments was too complicated and burdensome.

As the response to our Call for Solutions from the Planning Advisory Service pointed out: *“The proposition that the workload of planning applications requires better management and that response and process should be proportionate to the scale of application is fully supported. This is necessary both to allow a redistribution of resources to deal more effectively with the delivery of developments that have the greatest impact on outcomes for the community. But it’s also necessary to improve the experience of “individual customers” seeking approval for minor developments, who generally want clearer guidance, cheaper access to development permissions and more certainty of the result.”*

Insofar as development management can be considered to be a regulatory process, it should follow best regulatory practice as set out in the Enforcement Concordat¹⁵, which has been adopted by local planning authorities, and the Regulators’ Compliance Code¹⁶. In particular, the planning application process should have regard to the principle of proportionality, that action should be proportionate to the risks involved.

Our work on the Call for Solutions reinforced earlier concerns raised by Kate Barker¹⁷ that:

- too many small scale developments with very limited, if any, impact on their surroundings are being caught by the need to apply for full planning permission;
- the process of applying for full planning permission for these small scale developments is overly burdensome; and

¹⁵ Enforcement Concordat - BERR

¹⁶ Better Regulation Executive (2007) *Regulators’ Compliance Code: Statutory Code of Practice for Regulators*. Department for Business, Enterprise and Regulatory Reform, London.

¹⁷ Barker, Kate (2006b) *Barker Review of Land Use Planning – Final Report*. HM Treasury, London.

- the guidance available in relation to small scale development is often complicated and not user friendly.

We have divided this chapter into three main parts to tackle these key issues. In the first part, we look at the opportunities for reducing the number of small scale developments that require planning permission. The second part explores the opportunities to simplify the procedural and information requirements when full planning permission is required and the third part identifies measures to improve the quality of information available to those proposing and considering proposals for small scale development.

2.1 Reducing the number of developments that require full planning permission

Clearly some small scale developments can be extremely complex, or highly controversial, or both. Where substantive planning issues emerge (not simply controversy), it is right that detailed testing through the full planning application process is undertaken. However, in a great many cases, householder and minor developments have limited, if any, impact on adjoining neighbours, the street scene or interests of wider importance. In addition, 86% of householder applications and between 83 and 89% of minor non-residential developments are approved. Where the impact is very limited, it appears sensible to examine whether it is necessary to require the submission of a full planning application or whether more proportionate approaches may be more appropriate.

In our view there are three main opportunities to develop a more proportionate approach to small scale development with limited impact:

1. expanding the scope of permitted development;
2. encouraging the use Local Development Orders; and
3. looking at the options for an intermediate approach.

2.1.1 Expanding the scope of permitted development

In the Planning White Paper¹⁸, the Government set out its proposals for addressing the concerns raised by Barker, including its proposals to overhaul the scope of permitted development rights to remove, where appropriate, more small scale developments from the formal application process.

Progress has already been made in relation to householder development...

In October 2008 the Government introduced formal revisions to the General Permitted Development Order (GPDO) setting out revised permitted development rights for householder development, following a round of consultation on draft proposals in 2007. It is estimated that this measure will remove around 80,000 applications from the system. Earlier this year, the Government also increased permitted development for small scale domestic renewable facilities, such as solar panels.

¹⁸ HM Government (2007) Planning for a Sustainable Future. White Paper. Cm 7120, London.

... there is scope to expand permitted development for non householder development

In the Planning White Paper the Government also signalled its intention to revise permitted development rights for non domestic development. Alongside our report, CLG has published a research report it commissioned from White Young Green (WYG)¹⁹. This report includes a series of recommendations to extend permitted development rights for non residential development, by applying an impact based approach, similar to that now applying for householder development.

An impact based approach puts the assessment of the impact of the development on its surroundings as the key criterion for assessing whether or not a formal application is required or whether it can be treated as permitted development (Chapter 3 of the research report provides further details). This contrasts with the old approach to permitted development where much greater emphasis was placed on thresholds or limits. Many of these thresholds pay no reference to the context within which the development is to take place.

Using an impact based approach, the report recommends that a number of low impact developments, such as alterations and small scale extensions, could be treated as permitted development. These include:

- introducing permitted development rights to a range of uses that do not currently benefit from them, such as shops, offices and “institutions” including day nurseries, public buildings and leisure facilities;
- clarifying and extending permitted development rights for schools, universities and hospitals; and
- addressing issues where the GPDO is currently out of date, such as extending permitted development in relation to minor works at waste management facilities and disability access to public buildings.

We consider that the WYG research report provides a robust starting point for the changes that are proposed. Indeed the changes proposed by WYG, if implemented, would lead to a useful reduction in the number of applications. WYG estimate that these changes would reduce the number of minor developments that do not require planning permission by about 15,000 applications per year – which is equivalent to about 18% of all non residential minor development applications.

However we wonder whether it is not possible to go further than WYG propose. We would recommend that, in developing proposals for formal consultation, a further swift round of engagement is undertaken with key stakeholders who have detailed experience of development management, in order to identify the scope for any additional relaxation of permitted development within the context of the impact based approach.

¹⁹ White Young Green (2008) *Non Householder Minor Development Consents Review*. Department for Communities and Local Government, London.

In our view the principal areas where further relaxation may be possible are in relation to proposals for plant and equipment in some instances (currently the report recommends all such proposals are dealt with under a form of intermediate consent) and the scale of new industrial and warehouse buildings allowed within established industrial and warehouse areas.

In addition, we note that the Government also committed itself in the Planning White Paper to look at the opportunities for expanding permitted development in relation to renewable energy facilities on non householder land and buildings. We would strongly urge the Government to take forward this work at the earliest opportunity.

... and finally in relation to permitted development, ensuring that permitted development rights are not removed without clear justification

One point of concern that has emerged from a number of bodies representing applicants, such as the Home Builders Federation (HBF) and the Federation of Master Builders (FMB), is an apparent increase in the number of planning permissions granted where permitted development rights have been either restricted or withdrawn at the point where permission is granted. This was also an issue raised at regional stakeholder events.

The HBF put the concern well:

“There is little point in having wider permitted development rights when these are routinely removed from new buildings on the granting of planning permission. Many such conditions are added to permissions with no real reasoning behind their purpose. Such poor practice should be discouraged.”

In another section of this report we recommend that the Government update national policy on the use of planning conditions. In that update, we would recommend the Government re-states clearly that conditions should not be imposed that limit or withdraw permitted development rights in relation to new development, other than in exceptional circumstances.

2.1.2 Encouraging the use of Local Development Orders

The ability to make Local Development Orders (LDOs) was introduced through the provisions of the Planning and Compulsory Purchase Act 2004. They permit local planning authorities to grant permission for a specified type of development, either across the whole area or a specified part of it. To date, we are not aware of any confirmed LDOs, although we understand a small number are being prepared. The Planning Bill proposes changes to the LDO process to allow LDOs to be created without a link to a local development framework (LDF) policy.

Quite a number of the stakeholders attending our regional seminars and respondents to the Call for Solutions were sceptical about the value of LDOs. Many local planning authorities thought the process to create an LDO would be very complex, with likely costs, such as loss of control over development and loss of income, outweighing any reduction in workload or wider benefits.

Given that this is a relatively new measure, introduced at the same time as new style local development frameworks, which are a priority, the low take-up of LDOs so far is perhaps unsurprising. More significantly, quite a number of respondents thought that, with greater central encouragement and support, this measure might prove useful.

Two specific points emerged strongly:

- first, that the take up of LDOs would be encouraged if CLG provided direct assistance in the preparation of a number of pilot LDOs. Not only would these help directly in the areas concerned, but they could provide a useful framework and learning resource which would help reduce development costs for other authorities; and
- second, that LDOs could be particularly useful in two types of development scenario. One scenario is where very large scale residential development is identified in an up to date development plan and the LDO is, in effect, a design code. The second scenario where LDOs may be particularly valuable is for large self contained complexes, such as universities, hospitals and possibly industrial/business/warehouse parks, where there is often a constant need to adapt and extend buildings quickly to respond to new opportunities, and the scope for small scale changes which have minimal impact on the wider area may be greater.

As the Town and Country Planning Association (TCPA) note in their response, pilot LDOs could be used to confirm the efficiency and effectiveness of LDOs in terms of the time taken to deliver planning approval, the resource savings and the impact on development quality.

2.1.3 An intermediate form of approval process

Question 1 of the Call for Solutions posed the question about whether there was scope for an intermediate form of consent, in effect, a halfway house between permitted development and a full planning application. The purpose of such an arrangement would be to provide a simpler system for regulating minor developments where there was unlikely to be an objection in principle, but there may be a need for scrutiny and possible intervention on some matters of detail, such as siting, appearance and design.

Stakeholder views on this were divided, with a majority of those who commented opposed to the creation of a further intermediate tier. The Royal Town Planning Institute (RTPI) was typical of this group in commenting: *“the difficulties of implementing an intermediate consent level would be significant, could add to the complexity of the existing planning system and add time to the decision making process, rather than simplifying and speeding it up”*. Indeed a number of respondents raised concerns about the operation of the current intermediate approach, most commonly known as prior approval.

On the other hand, a smaller group of respondents argued that there should be an intermediate system. As the Institute of Directors noted: *“the system is currently bogged down with a large number of small applications, many of which could be dealt with in a manner which imposed fewer demands on scarce planning resources”*.

The current intermediate system - prior approval

The key features of the current prior approval system are that:

- prior approvals relate to the erection, alteration or extension of buildings;
- local authority approval may be required for the development details;
- design and external appearance may be considered.

At present, prior approval processes apply to a range of development types, including agricultural building and operations, forestry buildings and operations, some telecoms, and demolition of buildings.

We think there are three main options in relation to an intermediate level of consent:

- 1) have no intermediate tier – abolish the prior approval process;
- 2) reformulate and expand the prior approval system; or
- 3) replace prior approval with a simplified notification process for minor development.

Option 1: No intermediate tier – abolish the prior approval process

Abolition of the prior approval mechanism would mean all types of development would either be permitted development or require a full planning application.

As the respondent from St Helen’s noted, *“a simple system is the most easily understood and usually the most effective. Increased complexity can be avoided by dispensing with [the] idea of an intermediate approach. Either you need planning permission or you don’t.”*

It is evident from many of the responses that the current prior approval arrangements are often poorly understood, cause confusion and complaint, and are controversial, particularly in relation to telecommunications development.

Although this change would simplify the process for those prior approval developments which were re-classified as permitted development, it would mean the opposite for those where a full application would instead be required.

Abolishing the prior approval system would give a stark choice between increasing the number of full applications or running the risk that adverse third party impacts could result from unregulated developments going ahead. There is clear prospect that there would be strong demands for a full planning application for every development that could have an impact beyond the host property.

We do not have accurate figures for how many prior approval notifications there are each year. A survey of local planning authority development control managers suggested numbers varied widely from 9 to 300 cases per year, per local planning authority. Given the complete lack of reliable data, attempting to estimate the impact of a change is impossible, but, crudely, any benefits for some parties in not having to apply for permission will be offset to a degree by increased costs for those who must now apply for permission, with an increased timescale for a decision.

Although this option has considerable merits from a procedural perspective, there could be considerable drawbacks, for either communities or applicants, if an intermediate route is no longer available. Given that an intermediate process already exists, we think that the Government should first explore the opportunities to reform or improve the prior approval process, before it is abandoned completely.

Option 2: Revise and expand a system like prior approval

The second alternative would be to seek to improve and then expand the current prior approval option. This was an option explored in the WYG research report commissioned by CLG²⁰.

Complaints about the current arrangements include that:

- the system is unduly complicated because different procedures apply for different types of development covered by prior approval; and
- it does not reduce costs or workloads for local planning authorities or lead to significant time savings for applicants.

On the other hand, if the prior approval process could be made to work better:

- it offers a more proportionate and tailored approach for regulating developments; and
- the system retains the opportunity for local planning authorities to intervene on specified matters, when they deem it necessary, for developments that otherwise would be treated as permitted.

An improved regime could include the following key elements:

- full plans to be submitted at the outset;
- technical justification, if required;

²⁰ White Young Green (2008) *Non Householder Minor Development Consents Review*. Department for Communities and Local Government, London.

- 28 days for determination (for all types of development);
- no extension of time or ability to seek further details;
- no external consultations;
- default permission (deemed consent) if no decision made within a 28 day timescale; and
- right of appeal.

This new approach would apply to developments that share the following characteristics:

- the principle of development is acceptable;
- there is no evidence of widespread public concern about the type of development; but
- aspects of the scheme should still be subject to approval from the local planning authority.

Having regard to these characteristics, a number of types of small scale development which currently require full planning permission might be included in an expanded prior approval regime, including:

- small scale plant and equipment;
- shopfronts; and
- automated teller machines.

Further suggestions for the types of development that could be included in an expanded prior approval regime are set out in Chapter 6 of the White Young Green (WYG) Report.

It is evident from our discussions with stakeholders, and the work undertaken by WYG, that the use of the prior approval process for telecoms²¹ is a very controversial. The continued use of the prior approval process for telecommunications is not an area we have looked at in detail, and it would need very careful and detailed consideration before a decision on the best way forward.

Assuming these proposals are taken forward, the potential benefits would include:

- 16,500 minor development applications could be dealt with via this new regime - this equates to nearly 20% of non residential minor applications each year;
- greater certainty about the likely outcome for the applicant in those cases;
- shorter processing times; and
- cost savings for local planning authorities of the streamlined process – offset by likelihood of reduced fees.

²¹ Part 24 of General Development Procedure Order 1995 – development by electronic communications code operators.

On the other hand, there are number of disadvantages and potential risks with such an approach:

- a loss of third party rights to comment on the proposal;
- that the intermediate approach continues to cause confusion for all parties; and
- detailed regulations would be needed to cover the additional types of development covered and changes in the process.

Option 3: Replacement of the prior approval process with a simplified development consent process for minor development

There are a lot of minor developments that are routinely permitted on the basis of local guidelines (e.g. residential extension, or shopfront guidelines), yet are subject to the full-blown planning application process.

While, in theory, local authorities have the power to create Local Development Orders which could be used to extend permitted development at a local level to these types of development, they have been reluctant to do so, to date.

A number of respondents, including the Association of London Borough Planning Officers (ALBPO), Canterbury City Council, and the London Borough of Camden, have suggested that many minor applications could be subject to a much simplified process of checking whether the proposals conformed with published local guidelines.

The simplified process could work as follows:

- the applicant must inform neighbours that they intend to carry out development and are applying under the simplified development consent process;
- a simplified form is submitted to the local planning authority, setting out basic details of the development proposed, and including plans of the proposed development;
- the decision would be whether or not the development conforms with local guidelines;
- if the development conforms to the local guidelines, it can go ahead; if it does not, it is then subject to the normal planning application processes;
- as there is little in the way of planning judgement involved, the work can be carried out by less experienced staff;
- as the issue is conformity with guidelines, not the merits of the proposal, there would be no consultation;
- the published guidelines would be set out in Supplementary Planning Documents (SPDs), and subject to consultation as part of that process. They can therefore be user-friendly (as many SPDs now are), rather than legalistic, like the GPDO or an LDO; and

- the local planning authority has 28 days to issue a decision; if it fail to do so, permission is deemed to have been granted.

Potentially a very large proportion of minor applications could be dealt with in this way, provided there were suitable guidelines in place.

Typically many authorities already have in place detailed guidelines in relation to:

- householder development;
- shopfronts; and
- automated teller machines (ATMs).

There are a number of advantages of this proposal over the current full planning application process, particularly for the applicant, in terms of:

- greater certainty for applicants about the type of development that would be successful;
- quicker decisions – provided a full application is not required; and
- greater consistency in decisions, which are tested against published guidelines reflecting local character and distinctiveness.

On the other hand, there are some disadvantages and potential problems:

- no opportunity for third party input at time of the consideration (although the guidelines against which the application will be tested will have been subject to public consultation);
- the prospect of confusion and complaints from the public because they do not understand the distinction between the various processes; and
- a potential lengthening of the process for the applicant where a full application is, after all, required.

In addition, there may be reluctance on the part of some local planning authorities to develop such guidelines, particularly if this is seen as a step which would reduce their ability to control development. This could mean that, without a degree of compulsion on the part of the Secretary of State to require the preparation of relevant guidelines and criteria in relevant local development documents (which we understand is legally possible), this simplified process would only be available in some areas, not universally.

And there are number of significant practical and legal concerns that need to be addressed, including that:

- using policy tests to determine the process by which an application is handled could lead to considerable uncertainty and a commensurate increase in challenges from applicants and third parties;

- this new process would probably require primary legislation; and
- there would need to be an appeal mechanism on the issue of conformity.

Which is the preferred option?

A summary of the advantages and disadvantages of the three alternatives in relation to an intermediate approach are summarised in Table 2.1 below.

Table 2.1 Summary of options			
	Option 1 No intermediate tier – abolish prior approval.	Option 2 Revise and expand process akin to current prior approval.	Option 3 Replace prior approval with simplified development consent process.
Advantages	<p>Simple for the public to understand – less confusion about process.</p> <p>Fewer processes for LPAs to operate.</p> <p>Simplified regulatory regime.</p>	<p>Proportionate level of control for development where there may sometimes be adverse impacts.</p> <p>Clearly faster than full planning application process.</p> <p>Basic system already exists.</p>	<p>Simple for the public to understand – less confusion about process.</p> <p>Fewer processes for LPAs to operate.</p> <p>Simplified regulatory regime.</p>
Disadvantages	<p>Increase in permitted developments with adverse 3rd party impacts and/or greater costs/time taken for proposals where full planning permission is now required.</p>	<p>Continued confusion about process</p> <p>No public engagement.</p>	<p>Increase in permitted developments with adverse 3rd party impacts and/or greater costs/time taken for proposals where full planning permission is now required.</p>

Option 3 (simplified development consent process) has many attractions. A simplified development consent process could potentially be applied to a large number of householder and minor non-residential developments, which in total account for about 65% of all applications, and where, as we have said, the vast majority of applications are currently approved. Dealing with these by a simplified process offers the potential to make significant reductions in the demands on the resources of local planning authorities and free up resources for larger developments. It is also attractive in terms of providing locally relevant criteria against which to consider proposals.

However, feedback we have received, particularly from testing this option with stakeholders, has been very strongly that most of these types of developments are already dealt with in a proportionate way, even though they involve the need for full planning permission. So, there would not be significant reductions in demands on resources in practice.

In addition, the combination of procedural complexity, and the lack of clarity about which developments the expedited process would apply to could well increase confusion, complexity, and the potential for dispute, to such a degree that the disadvantages overall would outweigh the advantages of this approach.

Simply removing the intermediate tier also has its attractions, mainly in terms of procedural simplicity, but the lack of a middle tier would mean either increasing the number of full applications, or potentially seeing some schemes going forward as permitted development, with an adverse impact locally that might have been avoided with some control over elements of the scheme.

We think therefore that, on balance, our preference would be to make the existing and long established system of prior approval work better. We recommend CLG consult on proposals to reformulate and expand the prior approval process (Option 2) along the lines we have outlined above. In the event that it proves impossible to identify a way forward for prior approval which offers demonstrable benefits in terms of less complexity, wider use, and which commands a reasonable degree of support from stakeholders, then the next best alternative would be to have no intermediate system at all (Option 1).

Having said that, we believe there is scope for more local planning authorities to implement best practice in handling applications for householder and minor non-residential developments in a proportionate way. We would like to see all local planning authorities developing and publishing local guidelines for householder developments, shopfronts, ATMs and other minor non-residential developments with the aim of providing greater clarity for applicants and of helping to streamline the determination of applications – a point we return to in Chapter 6.

Recommendation 1 – Government should take the following steps to reduce the number of minor applications that require full planning permission:

- substantially increasing the number of small scale, commercial developments and other minor non residential developments that are treated as permitted development. Based on the detailed work undertaken, we would expect this measure to reduce the number of such proposals, such as small scale extensions and alterations to business premises, by about 18%, although Government should also consult on the scope for extending permitted development further, for example, in relation to plant and equipment, and allowing opportunities for small scale renewable facilities on non domestic buildings and land;
- ensuring that permitted development rights for new development are not restricted by condition at the time of the grant of planning permission, other than in exceptional circumstances;
- providing additional support for local authorities to increase permitted development opportunities locally, through the use of pilot Local Development Orders for areas, such as large hospital or university sites, where greater flexibility regarding small scale development may be appropriate;
- revising and expanding the prior approval process so as to provide a proportionate intermediate approach for appropriate forms of non residential development. Based on the detailed work undertaken, we would expect this measure to mean that nearly 20% of minor commercial and other minor non residential developments, such as replacement shop fronts and automated teller machines, would be subject to this expedited process.

2.2 Simplifying information requirements

Over recent years, the amount and type of information that has been needed to support a planning application has substantially increased and become more complex. As a consequence, the process of validation has also become more problematic. As we pointed out in the Call for Solutions, the proportion of applications judged to be invalid when first submitted can be 50-60% or more, and has become a point of increasing concern.

Much of the increase in information requirements is rooted in changes to national planning policy and legislation which have added to the number of considerations that need to be taken into account when determining an application. We discuss this issue further in Chapter 6. There are also continuing concerns raised by local planning authorities about the quality of many of the applications submitted – a point we discuss later, in Chapter 5.

But some of the problems in relation to validation have arisen because of a wide variation in the information requested by local planning authorities and the level of detail that they considered acceptable²².

The introduction of the Standard Application Form (1App) and the new validation requirements, in April 2008, were designed to make the process of submitting an application quicker and easier, by providing more certainty and standardisation about the information required at the start of the process. In particular, the new process was designed to provide applicants with certainty as to the information required to support an application, and to provide local planning authorities with all the necessary information to determine the application.

The information required to make a valid planning application consists of:

- information provided on the Standard Application Form;
- mandatory national information requirements specified in the General Development Procedure Order (GDPO); and
- information to accompany the application, as specified by the local planning authority – commonly referred to as the “local list”.

Government guidance issued at the time of the introduction of the standard application form made clear that the full benefits of standardisation would only be realised through its use as part of the electronically based process²³.

The new approach has certainly encouraged an increase in the number of applications submitted electronically. Analysis of quarterly statistical returns from local authorities, and figures for applications processed by the Planning Portal show a substantial increase in the proportion of applications submitted online. The proportion of local planning authorities with more than one fifth of applications online is as follows:

October 2007 40%

September 2008 67%

And a further 22% of local planning authorities have at least 10% of applications submitted online.

When 1App became mandatory, the majority of applications submitted via the Portal were small minor or other applications. However, in the last quarter, a marked increase has been detected in the number of larger and major applications being submitted online, suggesting that users’ trust in the Portal is increasing.

²² Arup (2004) *Standard Application Forms and a review of the acknowledgement, registration and validation process for planning applications and other consent regimes*.
Department for Communities and Local Government, London

²³ Department for Communities and Local Government (2008) *Circular 2/2008 – Standard Application Form and Validation*, London

A number of authorities have a really clear and helpful system for guiding applicants about information requirements. For example, Kingston-upon-Thames provides simple guidance on the information needed to support different types of application (householder, advertisement, other) which indicates what additional information may be required and the circumstances when it needs to be provided. The guidance includes links to other sources of guidance, such as the matrix produced by the Association of Local Government Ecologists setting out thresholds for the need for a biodiversity survey.

However, a majority of those responding to the Call for Solutions raised concerns about the process of validation, including some who argued the process had actually got worse as a result of the recent changes. There were also some points of concern about the Standard Application Form and the national information requirements.

Three points emerged clearly:

- the specification of detailed requirements in statutory regulations for the content of Design and Access Statements can lead to disproportionately long and complicated statements for minor development. There are a number of examples of Design and Access Statements in circulation in the planning community which illustrate the absurd extremes which can result when the statutory requirements are followed precisely for very small scale development;
- there needs to be a more proportionate approach to the requirement to provide plans - there is concern that a tick box approach to validation can lead to requests for plans that are unnecessary; and
- the requirement to complete an Agricultural Holdings Certificate is the cause of continuing confusion and error for applicants for full planning permission.

But the area of greatest concern was in relation to the “local lists” that local planning authorities have been able to adopt and operate once consultation has been carried out. Local lists set out the information that must be supplied, in addition to the small number of national requirements, in order for an application to be registered as valid.

The principal concerns with local lists were:

- the local lists were often not clear about when supplementary information is required for a particular type of development, sometimes putting the onus on the applicant to demonstrate why the full range of supplementary information set out in the local list is not required;
- when supplementary information is needed, it is not always clear how to satisfy the need;
- there is confusion about whether local planning authorities can add to the nationally recommended list of local requirements, in some cases leading to creation of secondary local lists; and

- all in all, a combination of lack of clarity, patchy provision of pre-application advice, and a tick box approach to validation can often lead to disproportionate information requirements, particularly for smaller scale development.

Jointly with Communities and Local Government, we commissioned research to look at the issue of information requirements at the point of validation in greater detail. The research report²⁴ is being published separately.

The research found a wide variation in local authority and applicants' experiences of the new validation requirements – from those who consider that the new regime has speeded up the validation process and helped to ensure that the correct information is provided at the outset, to those who have experienced considerable difficulties and more delay and confusion than previously.

Of particular concern are the findings that:

- the information requirements for householder applications had become overly complicated. Where local authorities were operating a single 'catch all' householder local list, the type and amount of information apparently required was, in the majority of cases, unnecessary;
- there is confusion about the local list defined in national guidance and its relationship with the local list produced by the local authority;
- while local lists can assist in enabling the local authority to have all the necessary information to determine the application from the outset, this has not necessarily been achieved through a 'reasonable' and 'proportionate' approach. Rather, it has led to local authorities often requesting far more information than is required, and applicants adopting an equally risk averse approach by providing greater amounts of documentation at the time of submission.

Refinement of the approach is needed

All parties need to be clear about what information is required to support an application at the very outset of the process. While some "teething" difficulties are to be expected, we do not believe that the recently introduced changes to the process of validation of planning applications have delivered the Government's objective of a streamlined and simplified process. A range of changes are needed to address the concerns that have been identified.

In taking forward improvements, consideration should be given to best regulatory practice and, in particular, the principle that regulated organisations "*should not have to give unnecessary information or give the same piece of information twice*"²⁵. Local planning authorities should not be asking for information in support of an application that they do not need to determine the application. The burden of proof should be on the local planning authority to show that the information requested is necessary, not on the applicant to show that it isn't.

²⁴ Ove Arup & Partners Ltd and Addison & Associates (2008) *Review of Information Requirements for Planning Applications*. Department for Communities and Local Government, London.
²⁵ Better Regulation Executive (2007) *Regulators' Compliance Code: Statutory Code of Practice for Regulators*. Department for Business, Enterprise and Regulatory Reform, London.

In terms of the existing Standard Application Form and national requirements, we would recommend that the Government:

- removes the detailed requirements for the content of a Design and Access Statement from the General Development Procedure Order, and instead uses national guidance to explain its expectations for such statements, having regard to the scale and sensitivity of the development and its surroundings. This change will allow a more proportionate and sensible approach to be taken to these statements;
- amends national guidance on the validation of planning applications to make it clearer that detailed plans should only be provided where they are necessary, with clear examples showing where they are not (for example, that roof plans are not required when there are no proposals to change an existing roof or add an additional roof); and
- explores the practicality of removing the mandatory requirement to sign an Agricultural Holdings Certificate when applying for full planning permission, and replacing it with a more proportionate and tailored approach to notify agricultural tenants on the limited occasions where this is relevant.

In relation to local lists the changes needed are more significant. In line with the conclusions of the research, we think the Government should:

- abandon any attempt to define a national local list, because:
 - it is impossible to define a long list of local requirements from which all local planning authorities should pick some or all elements – there are simply too many local variables;
 - it is unhelpful, encouraging some authorities to request that applicants comply fully with all requirements (or demonstrate why they don't apply);
 - it is confusing, in that the current guidance implies that local authorities can only request information of the types set out on the national local list, whereas they can (and many already do) request other information;
- use revised national guidance to set out a clear expectation that councils should publish clear and simple local lists covering most types of development, but acknowledge that lists cannot cover every type of development, and that, where major or unusual development is proposed, pre-application discussion of, and agreement on, information requirements should be the norm;
- clearly acknowledge the discretion councils have to decide what information is necessary to determine an application, and stress the responsibility incumbent on councils to ensure that their requirements are clear, justified and proportionate;
- set out revised and improved guidance to councils on any national policy requirements that need to be considered in developing local lists;

- establish an effective process of auditing to ensure that every local list clearly identifies:
 - the development plan or national policy basis for the requirement;
 - where (geographically) the requirement arises;
 - the type of development covered by the requirement – where appropriate, with thresholds below which there is no requirement;
 - what information is required to satisfy the requirement – again, where appropriate, with a graduated approach dependent on the scale/sensitivity of the proposal;
 - where further advice and guidance can be obtained to fulfil the requirement.

The length of supporting documents needs to be curtailed

We also think that it is important to tackle the ever increasing length of documents submitted in support of applications. At a number of stakeholder events, we heard of large vans being needed to deliver copies of the documents submitted with major planning applications. The volume of material associated with applications can be sometimes be huge, and we suspect, from our discussions with stakeholders, that substantial parts of some documents are subject to only minimal scrutiny and assessment.

Clearly the recommendations we make about the review of national policy, and the streamlining of information requirements set out above should help deliver more proportionate information requirements from central and local government, but applicants must play a part too.

Not only would shortening of documents submitted in support of applications force applicants (and more typically their agents) to identify the key issues more succinctly, but it would also greatly assist those who have to consider and comment on them, including local planning authorities and interested parties. If successful, a measure to shorten documents could also save a huge amount of paper and other resources.

Such an idea is not unprecedented within planning. For example, the regulations in relation to written submissions on the London Spatial Development Strategy²⁶ state that the Panel appointed by the Secretary of State are not required to consider a written submission unless it is shorter than 2,000 words in length. One very experienced planning lawyer, who responded to the Call for Solutions, put the point this way:

“A maximum length should be specified for all supporting documents. There is virtually nothing in planning that cannot be said in a report of 20 pages, perhaps allowing for up to 100 pages for an Environmental Statement.”

We think the local planning authorities should to be able to decline to consider documents of excessive length, perhaps through invalidation of the application. We recommend that Government

²⁶ The Town and Country Planning (London Spatial Development Strategy) Regulations 2000. SI 2000 No. 1491.

should work with local government and representatives of the applicants, in particular those who routinely submit large scale proposals, to identify how this can reasonably be achieved.

In short, we want to ensure that an applicant only needs to provide, and a local planning authority and other stakeholders with an interest in the application only need to consider, information that is relevant, necessary and material to allow the local planning authority to determine each particular application. A far more proportionate approach to information requirements is needed.

Recommendation 2 – Government should make the information requirements for all planning applications clearer, simpler and more proportionate, removing unnecessary requirements, particularly for small scale householder and minor development, by:

- removing the detailed requirements for the content of a Design and Access Statement from statutory regulation;
- revising national guidance on the validation of planning applications to emphasise that local planning authorities must not ask for more information than they need (for example detailed plans should only be provided where they are necessary);
- consulting on the removal of the mandatory requirement to sign an Agricultural Holdings Certificate for most applications;

And, specifically in relation to local information lists, by:

- abandoning any attempt to define local lists nationally;
- revising national guidance to:
 - set out a clear expectation that councils should publish clear and simple local lists covering most types of development;
 - acknowledge that lists cannot cover every type of development and that, where major or unusual development is proposed, pre-application discussions about the type and scale of information required should be the norm;
 - clearly acknowledge the discretion councils have to decide what information is necessary to determine an application, and stress the responsibility incumbent on councils to ensure that their information requirements are clear, justified and proportionate.
- setting out revised and improved guidance to councils on any national policy requirements that need to be considered in developing local lists; and
- establishing an effective process of auditing the local lists to ensure that they are clear, justified and proportionate.

In addition:

- local planning authorities should not be required to consider documents of excessive length in support of applications. Government, working closely with representatives of local government and those who submit large scale applications, should identify how clear limits on the size of documents could be achieved.

2.3 Improving information for users of the system

We asked a question in our Call for Solutions about access to simple, customer-oriented information and guidance.

Most householders and small businesses encounter the planning system on a very limited number of occasions, mainly when they propose to make minor physical changes to their property or when they are notified about a development proposed by a neighbour.

We commissioned YouGov to survey users and potential users of the system, focusing the research mainly on occasional users of the system proposing small scale development, about their need for, and use of, guidance about the planning application process. A full copy of the research report²⁸ is being published at the same time as this report.

The survey of around 900 users and potential users confirms what we heard anecdotally, that many find the planning system complicated and requiring specialist knowledge. Only a third of the users surveyed felt confident enough to go through the system without professional help.

Part of the issue is a perceived lack of guidance about when planning permission is required and what the overall process involves. There is a lack of knowledge about where to go for advice, and criticism that many local authority websites - which is where people expected information to be available - are not easy to access.

The planning officer is the first port of call for many users requiring guidance, including those who have appointed an advisor. The survey found that there is a perception that planning officers are difficult to access, although the advice they give is usually well regarded. The survey strongly suggests that being able to speak to a planning officer prior to submitting an application will avoid the need for a significant number of applications.

In terms of the issues on which publicly available guidance is most needed, the top three issues were: whether planning permission was required or whether the development was permitted; how to navigate the system; and regulations about the size and locations of development.

In response to a question about who should be providing advice and in what format, there was a clear view that local planning authorities should provide advice and that most respondents want booklets and leaflets alongside website information.

As with so many other aspects of the report, we are aware of many examples of good practice in the provision of booklets and leaflets by local planning authorities. Examples include the well-illustrated residential and shopfront design guidance provided by Chelmsford Borough Council, the handy overview of planning policy and the planning application system produced by Calderdale Council, and the leaflet encouraging public involvement and the practical “designing out crime” checklist prepared by Eastleigh Borough Council.

²⁷ YouGov (2008) *Killian-Pretty Research Report 2 – Availability and Use of Guidance on Planning Applications Survey*. Department for Communities and Local Government, London.

There are also some excellent local authority planning websites. In this context, one of the signs of a good site is information on policy, development control, and enforcement, not just how to apply for planning permission. We believe the following points are also important when judging local planning authority webpages:

- should be easily readable and understandable; clearly presented information, possibly with a function to resize text or view the page as text-only for those with visual impairments;
- should be easily navigable; mapped out, effectively cross-linked with good link integrity;
- should be kept up-to-date; and
- should have accurate and effective external references and links via search engines to specific and requested information.

Two good examples of local planning authorities' webpages²⁸ with these qualities are:

http://www.eastdevon.gov.uk/planning_services

http://www.redbridge.gov.uk/cms/Environment__Planning.aspx

At the national level, the Planning Portal has recently updated its “interactive house” which provides an excellent introduction to those seeking information about whether planning permission is required. But the survey suggests there is clearly room for further improvement and that an update of the centrally produced guides to planning for householders and small businesses would be welcomed.

In terms of the provision of user friendly information, we think the main answer lies in sharing best practice, and in ensuring that the excellent resources available on the Planning Portal are made available locally, as described below.

Use of the Planning Portal

During September 2008, the Portal reported over 215,000 visits (and almost one million page views) to the general public section of the site, while, in the same month, visits to the interactive house alone were over 55,000.

Almost every local authority now links to the Planning Portal's online application service to allow its customers to apply for planning permission online.

We think it is important for the Portal to develop even stronger links with local planning authorities to help them enhance the quality of information on planning on their websites, including providing better links with the Planning Portal resources, such as the interactive house and the online application service.

²⁸ Accessed October 2008.

We also believe it is important to improve the quality of the link between the Portal and CLG's web site. At present there is duplication and many stakeholders mentioned that they found CLG's website pages on planning hard to navigate with poor search facilities.

Making it easier to establish if planning permission is required

As the YouGov research revealed, the issue that the occasional users most often want advice on is whether planning permission is required (i.e. an application must be submitted to a local planning authority), or whether the proposal is "permitted development" (i.e. no application is required for the development they propose).

The Government has just changed the rules in relation to permitted development for householder development, and we have earlier commented on the need to take forward changes to permitted development in relation to minor non householder development.

The new "impact basis" should make the rules in relation to householder permitted development easier to understand, but, nonetheless, it is evident from our work, that both applicants and local planning authorities would benefit from improvements in the way queries, in relation to whether planning permission is required, are handled.

Many local planning authorities do have user focused information available in leaflets and increasingly on the internet, providing basic information to help inform those trying to work out whether an application is required.

The Planning Portal has created an "interactive house" which provides a user friendly explanation of the national rules in relation to permitted development²⁹. This is a very useful facility, but it can only provide generalised guidance based on national rules, which will not be applicable in every case.

Around 30 local planning authorities have implemented an "Expert System" – so called because it is intended to replicate the advice that a customer would get from an expert on planning. This rule-based system provides detailed and site specific guidance to users, depending on the extent of information captured, and made available, that is relevant to the application. The system uses information about specific local area constraints (such as whether the property is in a conservation area) to assess whether planning permission is required for the proposed development. In some authorities, site specific constraint information has been captured, and so the expert system can provide a definitive answer to the question of whether planning permission is required. As an example, South Cambridgeshire has a full online expert system – see the box overleaf.

²⁹ Planning Portal - Householders Guide.

WELCOME TO SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL'S ONLINE EXPERT SYSTEM

Do I Need Planning Permission?

The system will tell you whether your proposal requires planning permission or building regulation approval on a specified property or site.

It should be remembered that the system relies upon the accuracy of answers that are returned. We welcome any **comments** you may have on any aspect of the system.

What happens next?

On entering the site you will be asked to enter an address for the proposed works. You may be asked to pick from a number of alternative addresses. This address will then be shown on a map. By following the instructions shown on the map, you will first select the land within the boundary of your property or site and then submit this to the next stage.

The system will confirm the parcel of land chosen and any constraints associated with the land. You will then select the nature of the proposed development and be presented with a series of questions relating to your proposal, which can be answered by a simple tick in a box.

At the end you will be advised whether permission is required and have the option to print or email an enquiry confirmation for your records.

However, in the majority of areas, it is necessary to contact the local planning authority directly, to establish with any degree of certainty (short of a formal application) if a proposal is permitted development or not. Yet, from our discussions with both applicants and local planning authorities, we sense that authorities are increasingly unwilling to give informal advice on whether planning permission is required. This appears to be for two main reasons: (a) that dealing with such requests takes time, yet is not covered by fees; and (b) that the informal advice provided could raise serious problems if disputes were subsequently to arise. As a result, authorities are increasingly insisting on the submission of an application for a certificate of lawful development when queries about the need for planning permission arise. But the formal application route isn't always a proportionate or sensible way forward, for example, where people merely want to test out options, or where they are quite confident that permission is not required, but want to double-check their assumptions.

An internet based tool to answer the question – do I need planning permission?

The idea is a simple one, namely that householders or others proposing small scale development could, by providing some key information, test for themselves whether they need planning permission, or whether the proposal is permitted development.

Providing an internet-based tool provides a number of potential advantages, including:

- improved customer service – users can interrogate the system immediately, day or night;
- better operational processes – the system provides consistency – important when many authorities offer a duty planner service based on agency staff;
- better record keeping – an electronic record can be maintained of the queries made – including the information submitted by the user and any output provided;
- more information for others, including for neighbours. With a trusted system and transparent records, neighbours could also examine any records which confirm the position in relation to queries submitted in relation to a property; and
- better understanding – the Q&A approach of the expert system promotes understanding of the principles and limits of permitted development.

It can also provide savings for the local planning authority, although the time needed to recoup costs will depend on the cost of digitising the relevant information, the scale of requests for information currently received and the turnover of staff. An effective system reduces the need for most customers to contact the authority directly to find out if planning permission is required. This means staff time is freed up to improve the delivery of other planning services, or savings can be achieved in the overall cost of running the service.

The use of an IT system can also help simplify complexity – a point that was put to us very well in the submission by a local authority councillor who noted in his response to the Call for Solutions:

“There is an inherent conflict between the desire to reduce complexity and the real need to get planning and development decisions as “right” as possible from a very wider range of perspectives in an inherently complex world...a valuable role for IT is not to reduce complexity, but rather to “hide” as much as possible of that complexity by presenting to the user only those aspects of it that are relevant to the user’s need”

Some work is underway by the Planning Advisory Service (PAS)...

PAS inherited the expert system from PARSOL in 2006 and conducted a review of demand, strengths and weaknesses of the system and the impact of legislative change in late 2007. Following an interim update covering the microgeneration regulations in April 2008, it has changed the way in which the expert system is packaged and promoted.

The content of the expert system is now made available in a format which reduces the cost of implementation and makes it easier to keep the system up to date. The system can easily be re-issued to reflect further changes to the consent regime and to incorporate user feedback and suggestions. It is also now supported by a “Community of Practice” which promotes a peer discussion of the implementation of new legislation and includes online frequently asked questions (FAQ) and discussion (<http://communities.idea.gov.uk/c/929137/home.do>).

The content of the expert system has also been made available in a stand-alone demonstration version (hosted at <http://pas.jdi-consult.net/expsys/>). This is used to promote consistent application of new regulations by local planning authorities and to support users of the system. It does not have automatic links into any constraints data, but does demonstrate the principles of the expert system.

... and by the Planning Portal

In addition, the Planning Portal has been developing a new information source which will help better inform users of the planning system. We understand the Portal's 'Planning 360' service will allow users to identify whether their property (or a larger site/area which they can define) is within an area which is subject to specific constraint or sensitivity, for example, is within a flood plain. The service will also include data on buildings or areas of historical importance (including listed buildings and Scheduled Monuments) and nature conservation importance (including Sites of Special Scientific Interest and Special Areas of Conservation). Over 35 types of area with specific development constraints, a number of which are relevant to permitted development and the remainder of which are of relevance when submitting planning applications, have been included as part of the initial project covering England and Wales. This initial project will be delivered in late 2008.

This will mean that by early 2009, any member of the public will be able to determine what national constraints affect an area of interest from one place rather than having to search multiple websites. This information can also be passed to other Portal services to help speed up the information gathering process and raise awareness of constraints on proposed developments.

A way forward

We think there is merit in building on work that is already programmed with a staged approach developed jointly by the Planning Portal (as part of their work in developing e-planning) and the Planning Advisory Service – who have taken responsibility for the expert system and support councils in their task of implementing new regulations.

The key stages would be:

- to ensure that all local planning authorities provide a link to the Portal based “interactive house”;
- PAS creates scripts to provide help for those seeking information about the need for planning permission (the bulk of this work has been published <http://www.pas.gov.uk/pas/core/page.do?pageId=88490> – the remainder of the content will be complete by the end of 2008);
- PAS already makes scripts freely available to system providers for local implementation. There is additional support in assessing the business case and impact of the system planned;

- Portal explores with local planning authorities who are interested the possibilities for linking generic scripts with relevant local constraints maps derived from the Planning 360 project; and
- Portal supports those local planning authorities with fully digitised constraint and planning history information to deliver accurate self assessment information to users. Planning history is vital to establish if there any relevant conditions or directions which restrict permitted development rights for the property in question. Without this information it is not possible to provide a definitive assessment.

As we have indicated earlier, both PAS and the Planning Portal have initiatives planned that will deliver key components in this staged approach. The two organisations must work together to provide, for those LPAs who wish to do so, a system to enable fully accurate self assessment of whether planning permission is required. At this stage, we recognise that it may be some time before nationwide coverage of the most sophisticated information is achieved without a significant investment in resources, but PAS and Portal should continue to work closely with local planning authorities to achieve this aim.

Recommendation 3 – Government, local planning authorities and others should take the following steps to improve the quality of advice available for all users of the planning system:

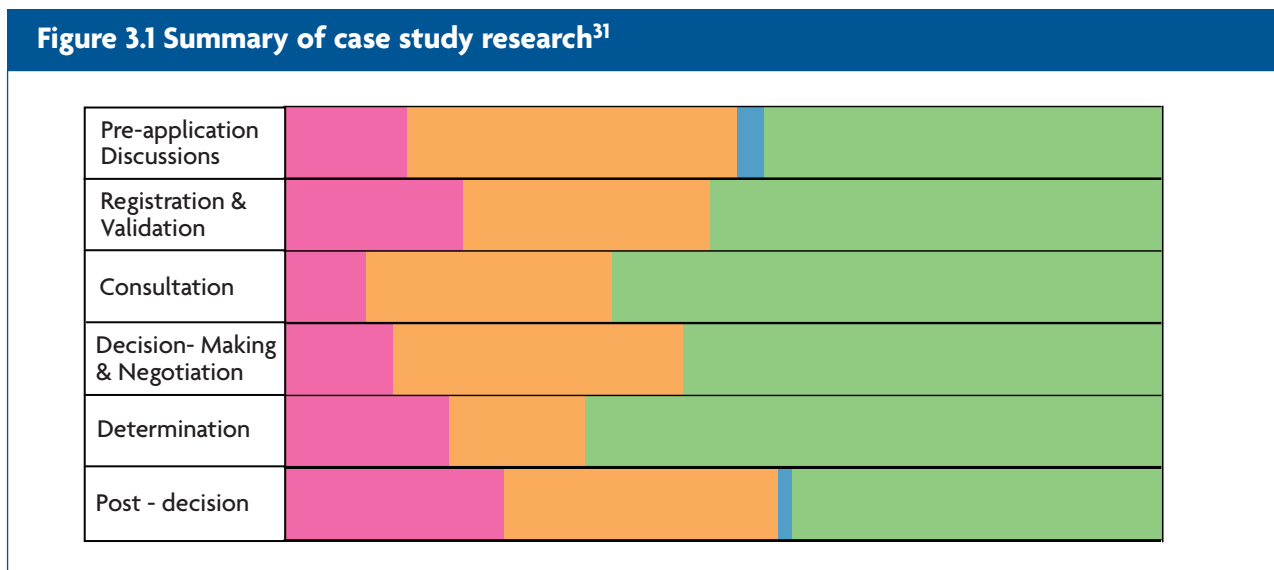
- Government and local planning authorities should review the information they make available to the public on planning matters, having regard to the findings of the research we have undertaken, to ensure that they provide the advice that applicants need in a readily accessible form;
- the Planning Portal should assist in this review process by identifying and publicising existing exemplary good practice by local planning authorities;
- CLG should improve the accessibility of its website on planning matters and ensure effective links are maintained between it and the Planning Portal site; and
- the Planning Portal and Planning Advisory Service should work together to support and encourage local planning authorities to develop a high quality internet based information system which allows members of the public to establish accurately and quickly whether or not planning permission is required for small scale householder and commercial development.

3. Making the process more effective

The recommendations in the previous chapter should reduce demands on the resources of local planning authorities in relation to handling smaller scale developments and free up resources for the smaller number of larger developments. This chapter focuses on ways in which the planning application process can be improved for the developments where full planning permission is required, with a focus on larger developments.

Our case study research³⁰ has looked into the causes of delays for a sample of major applications which had taken longer to determine than the 13 week target, as well as identifying examples of best practice. The results are summarised in the figure below. This illustrates the percentage of the 64 case studies in which, at each stage of the process, there was either:

- an efficient process with reasonable good practice and no substantial problems (green);
- some significant problems, delays or blockages but with minimal overall effect on the application, or the accumulation of several minor issues (amber); or
- substantial problems causing significant blockage or delay to an application, or exhibiting poor practice (red).



This shows that there was a reasonably efficient process (green) at each stage in around half or more of the cases. However, only three out of the 64 cases encountered no problems at any stage (i.e. were green at every stage). The greatest incidence of problems of some degree occurred at pre-application and at post-decision stages, and the most serious problems were more likely to occur at registration and validation and at post-decision stage.

³⁰ Addison & Associates and Ove Arup & Partners Ltd (2008) *Killian and Pretty Review: Final Report – Case Studies*. Department for Communities and Local Government, London.
³¹ Grey denotes a reserved matters application (pre-application stage) and a refused application (post-decision stage).

The research found that the way in which major applications were handled varied widely, with some examples of good practice, but also widespread examples of poor practice, including:

- poor record keeping of pre-application discussions and inconsistencies between pre-application discussions and the handling of the application;
- poor engagement with consultees at pre-application stage and during the handling of the application;
- poor quality applications, with applicants refusing the offer of pre-application discussions and ignoring the advice given at pre-application stage;
- a risk-averse approach to consultation;
- slow responses from consultees and the use of holding responses at a late stage; and
- inconsistencies in the use and scope of conditions and no clear system for discharging conditions or recording actions.

While the study has looked back at experiences over the last two years and recognises that improvements have been made in the meantime, it concludes that the application of best practice at all stages of the process by all parties consistently could deliver substantial improvements.

This summarises the theme of this chapter of the review. Most of our recommendations here are not radical: good practice already exists and is being implemented; it is just not being used consistently at all stages by all parties. Our focus therefore is on identifying best practice and recommending ways in which its use could be further encouraged. The recommendations in the previous chapter are intended to free up resources to allow more focus on major developments, but real change will require changes in culture among applicants and local planning authorities. We consider ways in which to provide greater incentives for such changes in culture in Chapter 5.

3.1 Making best use of pre-application discussions

Early discussions can improve the quality of proposals and the efficiency of the process. They can also clarify any issues of concern with a development, the information and assessments required, and the timescales for reaching a decision

pre-application discussions³² and guidance have long been advocated by the Government as an important part of the development management process. Current Government policy acknowledges that pre-application discussions can be critically important³³. Kate Barker³⁴ recommended the increased use of pre-application discussions as a means to improve efficiency in planning and to help provide greater clarity on the potential outcomes. A guidance note,

³² A pre-application discussion, as opposed to a general enquiry about a planning matter, is:

- a two way process, involving an element of dialogue and possible negotiation;
- concerned with a proposal that is site specific and has been developed to a fairly advanced stage i.e. outline plans and sketch drawing are available;
- based on a fairly firm intention to submit a planning application.

³³ Scottish Executive (2000) *Research into the Role of Pre-Application Discussions and Guidance in Planning*.

³⁴ Department for Communities and Local Government (2005) *Planning Policy Statement 1: Delivering Sustainable Development*, London

³⁴ Barker, Kate (2006b) *Barker Review of Land Use Planning: Final Report – Recommendations*. HM Treasury, London

“Constructive Talk – investing in pre-application discussions” has recently been produced collaboratively and published by a wide range of key stakeholder groups³⁵ to encourage improved good practice in pre-application discussions.

This guidance makes it clear that effective pre-application discussions can help deliver a range of benefits, including;

- avoiding incomplete applications that might be rejected at the validation stage;
- reducing the number of refused planning applications;
- saving time and money and increasing overall efficiency for all users;
- reducing potential confrontation in the planning system;
- raising the overall quality of developments and outcomes;
- helping to improve community understanding and acceptance; and
- securing improved overall satisfaction with the planning process.

The availability of pre-application advice may cut out the need for an application at all. Our YouGov survey found that, of those that sought advice from the Council, in over 50% of cases, planning permission was not actually required. Good pre-application advice would therefore reduce cost and time burdens on both applicants and councils.

The engagement we have undertaken and the responses we have received from our “Call for Solutions” echo the findings of our case study research and the NAO’s study that the key problems with pre-application discussion currently appear to be:

- considerable inconsistencies in approaches between different local planning authorities;
- the approach of some local planning authorities and applicants not to engage in pre-application discussions at all;
- the inability of others to engage in a timely and constructive manner;
- a lack of engagement in this part of the process by (some) statutory consultees;
- a lack of clarity about the process for some users of the system;
- a perceived lack of transparency in the process by some users;
- a lack of consistency in advice given in pre-application discussions and then at the subsequent application stage – particularly when the correct level of officer is not engaged at an early stage;
- poor, or a lack of, engagement with relevant or interested third parties; and

³⁵ Planning Advisory Service, Home Builders Federation, CABE, Land Securities Ltd, Planning Officers Society, CLG, BPF and Addison & Associates (2007) *Constructive Talk – investing in pre-application discussions*. Improvement and Development Agency, London.

- significant variations in approaches to charging for discussions – some at very high cost.

There was a clear consensus amongst nearly all stakeholders, that if pre-application discussions are approached in a professional, constructive and responsive way by all parties, then they will help to deliver significant benefits and improvements. There was significantly greater support for improving this aspect of the service, than for any other part of the process. Other views expressed included that:

- while they may not always deliver faster decisions, pre-application discussions should provide more certain and better outcomes and fewer applications;
- pre-application discussions need to involve all key players (including statutory and other consultees) and the advice given needs to be timely, binding and possibly a material planning consideration later on; and
- there was no consensus on charging for advice – some are happy to pay if they receive a good service, some would pay if it is then deducted from the application fee, while others believe it should be free, as it is part of an overall process that they have to pay a fee for anyway.

3.1.1 Improving the pre-application stage

In the light of our discussions with stakeholders and the responses to our Call for Solutions, we are entirely clear that more should be done to improve the pre-application stage of the process and in this context we have considered the following measures:

- making pre-application discussions compulsory;
- strengthening government policy and guidance on pre-application discussions and guidance;
- improving the clarity and consistency of information relating to pre-application discussions and guidance;
- encouraging a greater use of Planning Performance Agreements;
- using targets and financial incentives to help improve performance; and
- encouraging a more consistent approach on charging for pre-application advice and discussions.

Before examining these options in more detail, we readily acknowledge that we have heard of many examples of good practice that already exist, both on the part of developers and local planning authorities. As with so many aspects of this report, we are seeking to bring the standards of the rest up to the current practice of the best. The London Borough of Harrow, for example, has a comprehensive and proportionate approach to pre-application discussions and information about this is set out on their web site – see box overleaf.

London Borough of Harrow

Pre-Application Advice

In line with national planning policy the Council welcomes and encourages discussion before a developer submits a planning application, particularly for a major or complex development. Such discussions can be of great assistance to the applicant by identifying the principal planning issues and requirements, improving the quality of applications and speeding up the statutory planning process.

Planning Services provides planning advice on a number of levels to applicants, neighbours, Councillors and residents in general.

General information is available on our website, including links to the UK Planning and the Planning Portal websites where more information is available, for example, on the need for planning permission.

A Duty Planner is available in Planning Reception at the Civic Centre, between 9.00am and 12.30pm Monday to Friday, to give general guidance and advice on, for example:

- explanation of planning applications
- householder extensions and alterations
- shopfronts
- minor alterations or extensions to commercial property
- advertisements
- general guidance on the Council's policies and standards

No appointment is necessary but normally no more than 10 to 15 minutes is available for each enquiry.

For advice on larger schemes the Council provides an advice service at two levels, for which charges are payable:

- 1 Planning Advice Team
- 2 Pre-Application Meetings

The Planning Advice Team is an Officer-based group representing a range of disciplines, dealing with written requests for pre-application planning advice - a formal written response will be given – see application form and notes:

http://www.harrow.gov.uk/downloads/Planning_Advice_Team_Notice_April_2007.pdf

Pre-Application Meetings are available on request, and will include attendance by all the relevant officers from the Planning Advice Team, depending on the nature of the proposal – see application form and notes:

http://www.harrow.gov.uk/downloads/Pre-Application_Meeting_Form_April_2007.pdf

In each case a written reply will normally be dispatched within 10 working days of the meeting.

Source

http://www.harrow.gov.uk/downloads/ApplicantsUser_GuideRevised_Version29.2.08.pdf

Making pre-application discussions compulsory

All stakeholders agree on the benefits of pre-application discussions subject to their being carried out in an open, transparent manner. We have no doubt about the importance of pre-application discussions for larger developments. It is only through these discussions that applicants can gain a sufficient understanding of the issues that the proposed development raises for all interested parties, the possible impacts of the proposed development on different interests, and how those impacts could best be minimised through amendments to the development design, thereby avoiding problems of inappropriate development design, and inadequate supporting information and assessments, which underlie many of the difficulties with consultation, negotiation and conditions. However, while they are favoured by all, and most local planning authorities say that they offer them, the research evidence suggests that take up in practice is patchy.

Good practice guidance already exists. The question is what more could be done to make pre-application discussions the norm for those major developments which need and would benefit from them. Some stakeholders have called for pre-application discussions to be made compulsory for larger developments. Some statutory consultees, for example, favour compulsion, as this would help them prioritise resources. Pre-application discussions will be a compulsory element of the new process for nationally significant infrastructure projects. We have therefore given serious consideration to the suggestion that they be made compulsory.

Doing so would, however, raise a number of problems. While they are undoubtedly crucial for larger developments, they are not necessary for all. There would therefore be a need to define when they were required, and any dividing line would introduce anomalies, with pre-application discussions being required for some developments which do not benefit from them, and not for others which would. In addition, compulsion always brings with it the risk that the focus becomes meeting the requirement (to demonstrate that pre-application discussions have been held), rather than achieving the desired the outcome (a more effective process overall). Introducing a requirement on local planning authorities will also open up further opportunities for challenge and dispute, when the way forward lies in greater partnership.

On balance, therefore, we do not recommend making pre-application discussions compulsory. Instead, we favour stronger policy and greater clarity over the offering from local planning authorities, supported by incentives rewarding a good quality of service. These are described in more detail below.

We do think, however, that the Government should keep this matter under review. If it proves impossible to encourage or incentivise markedly better performance at the pre-application stage, then there may be a case for compelling such discussions to take place for major developments at least.

Strengthening Government Policy

Government policy, as set out in Planning Policy Statement 1 (PPS1), published in May 2006, already acknowledges the critical importance of pre-application discussions:

“Pre-application discussions are critically important and benefit both developers and local planning authorities in ensuring a better mutual understanding of objectives and the constraints that exist. In the course of such discussions proposals can be adapted to ensure that they better reflect community aspirations and that applications are complete and address all the relevant issues. Local planning authorities and applicants should take a positive attitude towards early engagement in pre-application discussions so that formal applications can be dealt with in a more certain and speedy manner and the quality of decisions can be better assured”.

This reference to pre-application discussion is, however, brief and fairly general. The recent collaboratively produced guidance note will also help encourage and deliver higher standards in the future, but it is just guidance. We believe that, as part of a wider review of the development management policy framework (see Chapter 6), it is important for the Government to set out more explicitly its key expectations about the pre-application stage in the process.

We are acutely conscious of the need to make national policy more tightly focused and more concise, but believe this is an issue where more detail is needed, particularly given the research findings over the lack of clarity about the process and the wide inconsistencies in advice given at different stages in the process.

The Government policy statement we are proposing on development management (see Chapter 6) should therefore include the following points:

- a clear requirement that each local planning authority should publish a statement or Code of Good Practice, setting out its approach and its policy on pre-application discussions and what guidance it will produce;
- that there should be a presumption that formal pre-application discussions will take place for all major developments, unless they are clearly unnecessary;
- that in each case a written record should be prepared, by the local planning authority and the applicant, of the substantive points discussed and agreed at the pre-application discussions and the actions and associated timescales that both parties agree to;
- that pre-application discussions, and advice given, should be a material consideration in the subsequent processing and determination of the planning application; and
- clarification of the role that statutory and other consultees should play in the pre-application discussions.

Improving the clarity and consistency of information about pre-application services provided by local planning authorities

Local planning authorities then need to ensure that they provide clear information about their pre-application service to applicants. In the publicly available statement or Code of Good Practice on the pre-application stage, they should set out clearly:

- the range of guidance available to those proposing development which would help applicants to prepare better quality planning applications;
- the opportunities available for pre-application discussions;
- the minimum information that is expected from, and the other responsibilities incumbent on, those seeking pre-application advice from the local planning authority;
- the actions that the local planning authority will take to respond to a properly framed request for pre-application advice and a clear timescale for a written response;
- what involvement there will be from statutory consultees and what will be expected from them, and what consultation and community engagement is expected from the applicant to support the subsequent application; and
- what charges will be applied (if they are to be imposed) and clarity about what service levels and other support will be provided for that charge by the local planning authority.

Using targets and financial incentives to improve pre-application performance by local planning authorities

The availability of clear public statements about the pre-application approach that each local planning authority proposes to take will help to provide greater clarity and transparency, and should help drive up overall quality and improve performance. Revised and strengthened national policy will also help to improve performance and quality. But we think it will also be important to:

- specifically measure the quality of each pre-application service; and
- provide financial incentives to further encourage local planning authorities to deliver high quality pre-application advice.

In relation to measuring the quality of pre-application service, we would recommend that, in developing a revised indicator of performance on development management (based on the quality of service provided to the applicant – see Chapter 5), one key component of that indicator should be the availability and the quality of the pre-application service provided by the local planning authority.

In addition, we believe that the pre-application stage is of such critical importance to the overall process that improvements in the quality of pre-application discussions should be explicitly

recognised as part of a wider revision of the Housing and Planning Delivery Grant, when the criteria on which it is based are next reviewed.

More detailed consideration of both these issues is set out Chapter 5.

Encouraging a more consistent approach when there are charges for pre-application advice

The Local Government Act 2003 provides authorities with a power to charge for discretionary services, including the provision of pre-application advice. This potentially allows authorities to recover at least some of the costs incurred in providing advice in advance of submission. As a general rule, income raised must not exceed the cost of providing the service.

Recent work by PAS³⁶ found that only a small number of authorities presently charge for pre-application advice, but more are actively looking at the possibility of doing so in the future. A number of authorities have decided not to charge at present for different reasons, including concerns that a charge may discourage development in some areas, or might risk harming a good working relationship with local agents.

Those authorities that do charge for advice claim that this provides a number of benefits. In particular, it can help sift out speculative or poorly thought out development proposals and can lead to better quality submissions. Other authorities have recognised that a more structured approach to pre-application enquiries and the adoption of more explicit service standards (more necessary when a charge is levied) have provided the opportunity to deliver important service delivery benefits, including significantly improved response times.

The experience of South Tyneside Council would appear to support the former view. It introduced charges for certain types of pre-application advice in April 2007. The number of enquiries reduced from 1600 to 990 in a year, yet no complaints have been received from customers relating to the fee paying enquiry service. Council staff reported a significant reduction in the number of poorly thought out and 'non serious' enquiries. The Council also noted that the reduction in workload has allowed more time to be spent on providing a detailed response to fee earning enquiries and on processing planning applications.

It is for local authorities to decide whether or not to charge for pre-application advice. Nevertheless, we are concerned by the very significant variations in charging rates applied for pre-application advice across the country.

Most authorities do not charge householders or for certain other types of minor, non-residential development. However, the types of service offered and the charges applied for advice in relation to major development can be substantially different. Approaches include flat fees (ranging widely from £30 to £3000), hourly rates (£50-150 per hour), and percentages of the subsequent planning fees (10% to 25%). The cost of simply having a meeting also varies significantly from under £100 in some places to well over £3,000 in others.

³⁶ Planning Advisory Service (2007) A material world – charging for pre-application advice. Improvement and Development Agency, London.

Although local circumstances do differ, we are concerned that very significant, and in some cases possibly unjustified, variations might bring the whole process of charging into disrepute. While we would not support the introduction of central prescription on charging, we do recommend that key stakeholders in the planning process, such as the Local Government Association and the Planning Officers' Society work together to develop ways of ensuring that a broadly consistent and measured approach is taken to charging for pre-application advice by all local authorities.

3.1.2 Other important issues for the pre-application stage

Addressing design issues early

One key issue that should be addressed at the pre-application stage, particularly for major applications is design. As PPS 1 makes clear, good design is central to good planning.

Some local planning authorities do provide clear guidance, including, in some cases, design codes for certain types of small scale development. However the policy and guidance from councils on design is not yet consistent in terms of quality and availability across the country. Local planning authorities need to provide guidance on what they consider constitutes good design and this is already strongly encouraged in national policy.

A number of responses to our Call for Solutions mentioned the opportunity of making greater use of Design Panels. Design or architect's panels, serving one or more local authority, have been in existence for many years, operating in accordance with Royal Institute of British Architects (RIBA) guidelines, or more independently.

Responses to the Call for Solutions suggested the benefits to local authorities of local design panels, particularly for pre-application and inter-professional design review. They advocate that local design panels can provide greater certainty to applicants, improve the quality of applications and help to address the skills shortage in planning, with particular benefits for large scale developments. The panels could also serve to consolidate best practice and provide independent peer and inter-professional advice.

The Planning Officers' Society suggested the establishment of a sub-regional Design Review Service to support local planning authorities. The Local Government Association suggested that design review panels involve councillors and officers, and be used to review the outcome of past planning committee decisions from a design standpoint. We are aware that RIBA is currently working with CABE, the Landscape Institute and the Royal Town Planning Institute (RTPI) to develop guidelines and an operating model for such panels.

We consider that local design panels can provide constructive input into the planning application process, particularly at the pre-application stage. But, we are very wary about any proposal which might further lengthen or complicate the application process. As the RIBA representation noted, there are a range of important issues to be addressed regarding the role, membership, hierarchy, transparency and governance of such panels.

In our view it is vitally important that where such panels are created, they have balanced representation and clear operating guidelines. Their primary role should be to offer constructive help and guidance in relation to schemes.

We would strongly endorse the view expressed by RIBA that the relationship between different levels of design panel needs to be clear. This is also needed in respect of other bodies who offer advice on design. There are some areas where, far from a shortage of advice, there are a plethora of bodies offering, often conflicting, views on design – with the problem being most acute in London.

In our view, a clearer local policy framework, combined with improved skills and capacity and greater collaboration and discussion between developers and local authorities at the early stages of the planning development of scheme proposals is more likely to meet the expectations of the local authority. Overall this should save time for developers and local authorities by minimising the need for extensive and repeat re-working of proposals.

Local authorities should consider what type of support arrangements will best suit their local context taking the opportunity to work in partnership with the range of relevant bodies such as Commission for Architecture and the Built Environment, Advisory Team on Large Applications and the wider Homes and Communities Agency to ensure that well-designed schemes are delivered, underpinned by an efficient planning process.

Encouraging the use of Planning Performance Agreements

Planning Performance Agreements (PPAs) are a relatively new concept which were introduced in April 2008, following an earlier successful pilot. A PPA is essentially a framework agreed between a Local Planning Authority and an applicant for the management of development proposals. It allows both parties to agree a project plan and programme which will include the allocation of appropriate resources to enable the application to be determined according to an agreed timetable. Applications which are subject to a PPA do not have a 13 week target for determination.

PPAs were introduced to enable a more robust project management approach to handling large and complex applications. Their increased use is being supported by the Advisory Team for Large Applications (ATLAS) who have an active programme of providing independent PPA Inception Days for major schemes. A number of major cases are currently subject to PPA, with numbers expected to increase in the future.

At this stage it is too early to evaluate the success of this initiative, although quite a number of respondents from the development industry were broadly supportive of the concept. However, there was a common view expressed at our regional stakeholder events that as currently promoted, they were too formal and resource intensive to be widely applicable. And some of those who responded to our Call for Solutions, including the RICS, noted that size of the PPA Template (15 pages) should be reduced.

Clearly, there is scope for applying many of the good practices and techniques of PPAs to a wider range of developments provided a proportionate approach is taken. Fundamentally a PPA seeks to introduce an agreed timetable to the process of handling the application. Agreeing the timetable up front encourages an early discussion of the issues and processes to be followed.

We think PPAs are a very useful tool and the Government should take steps to encourage their wider use. In particular it should make it clear that the full approach to PPAs set out in recent guidance note is designed to provide a framework for the most complex schemes, but a more streamlined and proportionate approach to PPAs, centred around an agreed timetable which is kept under review, is appropriate and acceptable for smaller, less complex schemes.

We want to deliver improvements in the availability and quality of pre-application discussions and guidance.

Recommendation 4 - Government, local planning authorities and others should take the following steps to substantially improve the critically important pre-application stage of the application process, in order to improve the quality of the application and to avoid problems and delays at later stages:

- Government should strengthen and clarify national policy and guidance, so as to set out clearly its key expectations from applicants, statutory consultees and local planning authorities in the pre-application process;
- this policy and guidance should be based on the presumption that, for major developments, there will be formal pre-application discussions involving, where appropriate, all relevant parties, including elected members, statutory consultees and representatives of the local community;
- Government should further encourage the use of Planning Performance Agreements (PPAs) for major developments by making it clear that a proportionate approach to PPAs is acceptable. Thus for smaller and less complex schemes, a much simpler approach to a PPA, centred around an agreed timetable, may be all that is required;
- each local planning authority should publish a statement or Code of Good Practice, clearly setting out the range of guidance and opportunities that it offers for pre-application advice, what is required or expected from potential applicants and detailed information on what will be delivered where there is a charging regime;
- appropriate professional bodies and stakeholders should jointly develop guidance for those councils which charge for pre-application advice, so as to introduce a more measured and consistent approach to charging across the country;
- Government should introduce a new performance framework, replacing the existing time targets, in which the availability and quality of pre-application advice is measured, and good performance by local planning authorities rewarded (see also Recommendation 15).

3.2 Improving the way applications are handled once submitted

3.2.1 Facilitating consultation electronically

One matter of concern to local planning authorities, with the introduction of online submission of applications, is that it has not proved possible in many cases to then consult statutory and non statutory consultees on the application electronically. This is for a variety of reasons, including incompatibilities between IT systems, the legibility of some key documents (e.g. plans) in electronic form, and a lack of suitable technology to support this activity. At present, many local planning authorities are bearing the considerable cost (materials, labour and equipment) of preparing paper copies of applications which have been submitted online. Difficulties are also being encountered by those who are being consulted – see the box below.

Association of Local Government Archaeology Officers: *“In many ways e-planning has been a great help. It enables advisors not based in local authorities immediate access to a planning application and all its supporting documents. However there are inconsistencies between local authority systems, and the delivery of the information. The practice of presenting documents scanned from hard copy can lead to poor quality or illegible documentation, this could be avoided by loading documents as .pdf or Word documents.”*

Natural England: *“Natural England is a member of Statutory Bodies E-Planning group and welcomes e-consultations from local authorities and developers. We believe that the current system of e-consultation will be improved when the Planning Portal’s e-hub is in place. This will help to remove a number of issues relating to blocked websites and differing standards of software and consultation protocol.”*

As part of a continuing programme of work to support the improvement of the planning process, the Planning Portal has developed the national e-consultation service. The service seeks to facilitate the rapid and efficient exchange of planning applications and responses between local planning authorities and consultees. The e-consultation service is the critical missing piece in an end-to-end e-planning process. For the purposes of proving the system, the Planning Portal team has recently “Live Tested” the service with local planning authorities and statutory consultees.

This service will reduce the time taken to consult, offering the opportunity to reduce the time taken to process planning applications, leading to cost and time savings for applicants. Additionally e-consultation will create very real cost-savings for local planning authorities by avoiding the need to print and post paper files. We understand that the Live Test has demonstrated that using the service over three months creates time savings of over 30% for both local planning authorities and consultees. In addition, the Live Test suggests that a local planning authority will be able to process two thirds of its consultations through the e-consultation hub by the end of 2009.

This is clearly a critical piece of work, which, over time, will improve information flows and allow a greater degree of participation by individual citizens and others potentially affected by the planning process. We strongly support the continued and speedy implementation of this service.

3.2.2 Improving the way applications are processed

Within Communities and Local Government, the National Process Improvement Project (NPIP) has been carrying out research into the use of business process improvement (bpi) techniques in a local planning environment. They are due to conclude this work in early December 2008. They have worked with four local authorities to examine how planning applications are processed, by using process mapping and activity based costing techniques, to assess the effectiveness of their current activities and identify opportunities for service improvements.

Each of these councils set up a project to break down the activities required to process a planning application. Activities were evaluated on the basis of whether they 'added value' to the end customer and what it cost the council to complete them. Each activity was given an attribute of Value Adding, Sustaining or Non-Value Adding and the model calculated the cost of each of the sub processes into which the planning application process was broken down.

The project analysed over £6m of processing cost across the four councils and demonstrated that:

- over 17% of the cost incurred is non-value adding;
- 57% of the process cost is on activities not required by the customer;
- the process of "checking and amending reports" accounts for over £400k; and
- internal meetings, which add no value to the customer, cost over £380k.

Using the results of the study it has been possible to benchmark and compare both total process and unit process costs. Three of the councils involved carried out joint learning days where they shared their data and methods of operation. They found this to be a useful way of not 'reinventing wheels' when redesigning processes.

Based on their quantitative analysis, steps are being taken by the councils to transform their planning service. Examples include:

- introduction of an accredited agent scheme and better agent education;
- three levels of validation based on application type;
- e-consultation;
- a 50% reduction in applications going to committee;
- fast tracking non complex applications;

- cultural shift to less checking and more “Right First Time”;
- involvement of the case officer from day one; and
- improved customer service training to increase first time resolution of queries.

The Councils have confirmed that they will be able to make financial savings of at least 3%, and one is aiming for a 13% saving with plans to reinvest some of that into development management activities. A wide range of other benefits were also identified, including:

- improved customer experience and satisfaction;
- improved performance on LAA National Indicator 14 ‘Avoidable Contact’;
- reduced numbers of invalid applications;
- improved consultation and notification process; and
- reduced committee workloads.

The project has produced evidence based guidance based on the experiences of the four councils. There is a clear case for a programme of dissemination of the NPIP project findings to inform all councils of the benefits of this approach, including using business process improvement techniques on other planning processes, and raise the bar in respect of efficient practices and better service. Experience sharing networks, created in association with the Regional Improvement and Efficiency Partnerships, would be beneficial to enable councils to assist and learn from one another at a local level.

Recommendation 5 – Government should continue to invest in facilitating and encouraging improvements in the processing of applications by local planning authorities through:

- the Planning Portal taking forward its programme of work to allow greater consultation electronically on planning applications, rather than by paper; and
- working with the pilot local authorities who participated to ensure wide dissemination of the findings of the National Process Improvement Project on the application process, due to be published shortly, which identifies the opportunities for financial savings and the improved customer experience and satisfaction that are possible with a business process improvement approach; and encouragement to local planning authorities to take them up through experience sharing networks.

3.3 Improving the use of planning conditions

Our “Call for Solutions” identified three areas of concern over the use of planning conditions on planning permissions:

- the number of conditions being imposed;
- the number of conditions that are unduly onerous or unnecessary;
- the time and resource implications for discharging them.

Our case study research has shown that the post decision stage is one of the more problematic stages in the process, with evidence of inconsistency in the use and scope of conditions, and no clear systems for discharging conditions or recording actions. Our case study research found that, on average, eight pre-commencement conditions were attached to permissions, but that there could be as many as 22.

The latest Government advice on the use of conditions is set out in Circular 11/95. As this circular acknowledges, using conditions can allow development to proceed rather than being refused and can also enhance the quality of development. But, conditions should not be used indiscriminately. Any condition imposed needs to comply with each of the following six tests:

- it must be **necessary**;
- it must be **reasonable**, in all respects;
- it must be **enforceable** by the local planning authority;
- it must be **precise** (and not in any way vague);
- it must be **relevant to planning**; and
- it must be **relevant to the development** that is being proposed.

There is further helpful advice in the circular, including an acknowledgement that pre-application negotiations can avoid the need for conditions to be imposed. It also advises local planning authorities to prepare a standard list of conditions and makes clear that reasons for conditions should always be included on decision notices. However, Appendix A to the circular then sets out a total of 79 possible model conditions and explains that this list is not exhaustive.

As the planning process has become more complex, with more key players and increasing numbers of matters becoming “material planning considerations”, it has become inevitable that more issues are being dealt with by condition. Although conditions are actually imposed by the local planning authority, the increasingly inclusive nature of the planning process also means that some conditions are now being imposed following recommendations or requests from third parties, as part of the

wider consultation process. For example, environmental conditions are often recommended by the Environment Agency and highway conditions, either by the local highway department or by the Highways Agency. Engineers often recommend drainage conditions, and Crime and Disorder Reduction Partnerships are increasingly recommending conditions to deal with crime and safety issues. It is hardly surprising, therefore, that increasing numbers of conditions are being imposed upon planning permissions.

The problems in relation to the number of conditions imposed seem most acute in relation to large scale development. For example, a planning officer from a council in the south east noted, *“You are certainly on the right track with regarding the wording, number and complexity of conditions. We have some developments where conditions go into the 30’s or 40’s and yet there is a design brief and design code in place which should obviate the need for at least half of these”*.

There is no silver bullet, but a range of measures may help reduce the number of conditions imposed...

Part of the answer lies in improving the quality of applications submitted in the first place. Many councils pointed out that more conditions are necessary for poor quality schemes than good ones. Clearly better pre-application engagement, including design advice, as outlined earlier in this chapter, will help. We also think those agents who routinely do a more competent job should be acknowledged (see Chapter 5).

More up-to-date national guidance may also be of benefit. Thirteen years have now passed since the conditions circular was issued. We think updating national guidance would (a) remind authorities of the need to assess all conditions against the six key tests; (b) reinforce the need for conditions not to duplicate other statutory controls; and (c) re-visit the issue of model conditions. In that regard, we note that the Planning Inspectorate have recently published some additional model conditions to supplement the circular.

We heard from many stakeholders that Planning Inspectors typically impose fewer conditions than councils because, as one stakeholder noted, *“they follow national guidance closely”*. We would suggest that the Planning Inspectorate plays a leading role in any updating of the national guidance, so that its experience in keeping the number of conditions to a minimum can be reflected.

Updated guidance should also encourage local authorities to publish, on their websites and on the Planning Portal, a full list of the model conditions they normally use, including any conditions developed to address specific local issues. Users would then have improved access to, and a better understanding of, the conditions that might be imposed by the local planning authority.

We note that some councils give applicants the opportunity to comment on conditions before a matter is decided, and they can also then form part of discussions at Committee meetings, if required. To encourage this good practice, we believe, therefore, that, on major applications only,

local planning authorities should be required to provide a draft list of conditions 10 days before the application is to be determined by the authority.

We also think it would be easier for the applicant and third parties to understand the terms of any conditions, if conditions were grouped by type. Planning conditions generally fall into one of four types: the standard (time limit) condition; those that need action prior to the commencement of development; those that need action prior to occupation of the development or site; and those that need monitoring only after development becomes operational (often imposed to protect amenity or other issues but not normally requiring any specific action for applicants). It would be helpful to all users of the service if conditions on decision notices were set out under these four headings. Everyone would then be clear on what requires action before development commences, or the site/development is occupied, and what needs monitoring only after development is complete and operational.

And finally, respondents to the Call for Solutions were clear that the time-target based culture had exacerbated the increase in the number of conditions imposed. We hope that our recommendations for a revised approach to monitoring performance (see Chapter 5) will allow more matters to be resolved during the course of the consideration of the application, obviating the need for many conditions.

... there is also a need to improve the discharging of conditions

In our Call for Solutions, we sought views on how well local planning authorities discharge conditions once imposed. The general view was that, because far too many conditions are being imposed on some permissions, councils are often then unable to effectively discharge, monitor or enforce them. It was suggested that timescale targets for the discharge of conditions should be introduced, and, if not met, then conditions should be deemed to have been complied with. Our case study research findings were consistent with this view, with “... *considerable (and consistent) poor practice shown in the discharge of pre-commencement conditions... with most authorities [in the case study] discharging conditions by letter or other similar informal submission. As a result, case files rarely contained any systematic overview of the extent of conditions discharged*”.

A first step must be to improve the quality of information available. At present, as our research found, it can often be difficult and, in some cases, impossible to find information about whether some conditions have been discharged. We do not think this is acceptable.

In particular, we believe that local planning authorities should place all decision notices and decisions to discharge any related conditions on their websites within two days of the decision being issued. Councils also need to ensure that all the relevant information in relation to a planning permission is suitably linked, so it is possible for any party to check easily on the status of compliance with those conditions which must be discharged before commencement or occupation of the development or site.

The introduction of fees should help address a key concern raised by many councils – a lack of resources to deal properly with conditions. Since 1st April 2008, local planning authorities have been allowed to charge for formal requests to discharge planning conditions. Although there has been some confusion about the basis for this charge, it should help local planning authorities to ensure that adequate resources are made available to deal with requests for the discharge of conditions. Nevertheless, there are other steps that need to be taken.

We think that this is an area where further work and discussion with stakeholders, particularly local planning authorities, is required. While we are absolutely clear that more needs to be done to improve the discharge of conditions, we must ensure that any solutions do not simply introduce other burdens or difficulties into the process. A number of potential solutions have emerged which may address this issue, and further focussed discussions on this issue may identify more ideas.

For example, the use of “approved contractors” to carry out the discharge, monitoring and enforcement of conditions on the authority’s behalf may be one way to address the shortage of resources. This could operate similarly to the way that building regulation matters are dealt with by certified inspectors. Contractors could be appointed either to deal with specific cases, or to manage the overall aspect of this part of the service for the authority for a fixed period. Contractors could pick up planning applications, once approved, and then pro-actively manage the discharge of conditions within agreed time limits. The service could cover all applications or only major cases that need more time and commitment.

There could also be scope for applicants/developers to directly appoint an “approved contractor” to discharge conditions on their behalf. Such contractors would need to be certified by the local planning authority, which would have to formally delegate the power to them to act on the authority’s behalf.

A practical difficulty with this option is whether such an opportunity would offer sufficient income to attract the private sector. Certainly on the basis of current fee levels the financial rewards to the private sector for providing such a service would be low.

Similarly, it could be argued that there are significant differences between the fairly straightforward technical approach to building regulations, and what can be a much more subjective assessment as to whether conditions have been properly and fully complied with. Nevertheless, we believe that this idea merits further consideration.

Another suggestion put to us was in relation to time limits for the consideration of conditions. Conditions imposed on minor developments (materials, design detail or landscaping) should be fairly straightforward to discharge and one option would be for local planning authorities to be required to discharge these within a fixed timescale, for example, 20 working days.

Of course there are conditions which require the consideration of further technical information,

sometimes involving consultation with third parties, so a tight timetable of say 20 days would not be reasonable in those cases. Devising a system which allowed a variable timescale in certain instances might, of itself, introduce as many complications as it is intended to solve. So this idea needs further consideration to see it delivers genuine improvements overall.

One further idea is to develop an expedited way to deal with an appeal to discharge of a condition, where a local planning authority has failed to decide the matter or has refused to discharge the condition. Given that the issues raised in such cases are quite limited, it should be possible to have an expedited process for dealing with such matters at appeal.

We want to reduce the number of conditions imposed on planning consents and to speed up the process for discharging conditions.

Recommendation 6 – Government should comprehensively improve the approach to planning conditions to ensure that conditions are only imposed if justified, and that the processes for discharging conditions are made clearer and faster by:

- comprehensively updating national policy on conditions, including stronger guidance on the need to ensure conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects (the 6 tests);
- revising and updating national guidance on model conditions, including clear examples of where conditions should not be imposed to avoid duplication with other statutory controls (see also Recommendation 16);
- for major applications, requiring local planning authorities to provide applicants with draft conditions at least 10 days before a decision is expected and to consider responses from applicants before conditions are imposed;
- requiring local planning authorities to produce a structured decision notice, which groups the different types of condition into those that must be: discharged before commencement; discharged before occupation; or require action or monitoring after completion;
- requiring local planning authorities to place a copy of the decision notice and all conditions on their websites within two working days of formal planning permission being issued;
- develop workable proposals for speeding up the discharge of conditions involving, for example:
 - the use of approved contractors to assist local planning authorities to discharge and monitor conditions;
 - the potential for a default approval of a condition, if not decided within a fixed time period;
 - a fast track appeal process for matters only concerned with the discharge of conditions.

3.4 Cutting the delays with planning obligations

Planning obligations are used to deal with matters that cannot normally be dealt with by condition, such as helping to deliver affordable housing, or to secure other matters that relate to the development proposed. However, there are no rules to strictly define when and where obligations should be used. Circular 5/05 sets out the policy tests that give the scope of acceptable uses of planning obligations. However these have a wide interpretation, which means that obligations are used for a variety of purposes. As more and more is expected to be delivered through the planning system, so has the number of obligations required to achieve delivery increased. The increased requirement found in many areas for the provision of affordable housing is an obvious example.

A survey of local planning authorities carried out by CLG in 2006 found that over 50% of the delays encountered by major developments were due to difficulties in reaching agreement on section 106 planning obligations. Suggestions made in response to our “Call for Solutions” include:

- the system needs to be simplified or replaced with a tariff based system;
- negotiation and early advice on likely requirements must form a key part of pre-application negotiations;
- there is no need for detailed agreements early in the process – Heads of Terms will normally suffice and these should form part of pre-application discussions;
- local planning authorities need to manage the section 106 obligations process more efficiently and be realistic about how much detail and information is really needed at various stages of the process;
- councils should be more flexible and allow external or applicant’s lawyers to prepare agreements to achieve faster results;
- both parties must be committed to an outcome – some applicants are not and this causes delays or results in stalemate; and
- it should be possible to impose a condition that requires an agreement to be completed. This would allow many decisions to be reached more quickly. An alternative would be to amend targets so a “resolution to approve” becomes the target date.

Solutions to the problems identified with planning obligations need to be considered in the context of Government plans to introduce the Community Infrastructure Levy (CIL) in England and Wales from Spring 2009. Local authorities will be empowered to introduce CIL on a discretionary basis to raise funds to help provide the infrastructure that is needed to support development. CIL is intended to provide certainty to applicants, to speed up agreements and to provide transparency and fairness. Proposed charges will be consulted upon, they will be independently examined, and will then be published in a local charging schedule within a Local Development Framework (LDF).

Upon introduction, CIL is likely to be levied on many residential, commercial and other developments, to help fund local and sub-regional infrastructure requirements, such as transport schemes, schools, health centres, leisure centres, flood defences, play areas, parks and other green spaces. Some of these are currently secured through section 106 agreements. Although Government envisages that many existing tariff obligation schemes should migrate to CIL, in reality, there is likely to be a mixed picture of planning obligations and CIL in operation in the future. It is likely that many local authorities will still need planning obligations to help fund site specific requirements. Others may also continue using planning obligations, rather than implement CIL.

Section 106 planning obligation agreements will remain in place to obtain developer contributions towards affordable housing, where appropriate, and to secure improvements necessary to make development acceptable, which would otherwise be unacceptable in planning terms.

The Government is already considering whether restrictions on the use of planning obligations should be made once CIL is introduced. Because of the direct impact of CIL on planning obligations and the need for clarity between the two regimes, options for scaling back planning obligations need to be considered directly in the context of the emerging CIL proposals. The timing of any scale back will be of key importance, in order to provide certainty and to encourage the use of CIL. Premature timing could also delay the provision of infrastructure that is required to support new development. In reality there is likely to be the need for at least a transitional period, to allow local authorities to continue using planning obligations to raise infrastructure funds until the introduction of CIL has become fully established in a particular authority.

In this context, we conclude that the Government should continue to consider the best options for scaling back planning obligations and should:

- produce early and clear guidance on what should be covered by CIL and what should be covered by planning obligations. This should address the varying needs of different types of development and Government expectations as to what new development should deliver;
- provide updated advice and guidance on the interim and future use of section 106 obligations through a revision to Circular 5/05; and
- establish the policy tests contained in Circular 5/05 into law, thereby making them statutory tests.

Consideration also needs to be given to other issues that can cause delay and, therefore, need resolving. These specifically relate to conditions and to the validity of agreements.

Conditions

Circular 5/05 explains that planning conditions are preferable to obligations, and that obligations should only be used when conditions are not suitable or appropriate. However, it appears that, increasingly, applicants are being required to provide obligations when a condition might suffice.

Additionally, there is a lack of clarity as to whether what are termed “Grampian” type conditions can be used to require applicants to sign section 106 agreements. Currently some local authorities are using this approach, while others have been advised not to do so. Although this approach has the benefit of allowing a permission to be granted more quickly and helps targets to be met, it can also reduce certainty for applicants and can still cause delays at the end of the process. Ideally, the likely need for an obligation should be identified and agreed within the pre-application process. However, in those cases where the requirement for an obligation is not foreseen, then the use of a condition may benefit the applicant by allowing conditional approval, rather than refusal or delay. While the circumstances where this is likely to happen should be very limited, we have concluded that the potential use of a condition being imposed to require a subsequent obligation needs early clarification. On balance, we would like to see this option being available to local planning authorities and applicants, but on the basis that this is in exceptional cases and not the norm.

Validity

We have been advised of some obligations being used to secure, for example, regeneration scheme contributions, the validity of which raises some concern to some groups. It is questionable to some as to whether a section 106 agreement should be used to secure contributions to bodies, other than the relevant local authority. On the other hand, the ever widening expectations as to what the planning system is expected to deliver means that contributions are increasingly being required by many other groups beyond the local authority. Examples include certain Government agencies such as English Heritage and the Highway Agency, the Environment Agency, police forces, education bodies, highway authorities and many others. For some groups, these expectations can raise concerns about the enforceability of the agreement and the validity of the permission.

Difficulty can also be encountered in regeneration schemes, where the local authority is the landowner, as there can be doubts whether a local authority should contract with itself. These issues lead to over-complex and time consuming agreements, the validity of which appears questionable. These points need reviewing and clarifying.

Circular 5/05 is already likely to be updated following the introduction of CIL and we are making supporting recommendations as set out above. The Government should use this opportunity to resolve the ongoing issues relating to the use of conditions and contract validity summarised above.

In addition, we believe there is scope for more widespread use of good practice to improve the process of agreeing planning obligations. Good practice measures we have identified include:

- **Standard agreements and clauses** which are readily accessible through planning authority websites and other published media bring early clarity to the process. Some authorities have developed their own agreements and clauses, whilst others use the Law Society model agreement to equally good effect;

- **Clear and transparent formulae** used to calculate the obligation amount. This provides an early indication of the likely cost of the agreement. This is very useful to applicants as, according to RIBA, Section 106 agreements typically range from 2% to 17% of development costs;
- **Standard tariffs** (which are likely to migrate to CIL schemes over time) have also proved useful but can also be unresponsive to issues of economic viability;
- **Local Development Framework** policies relating to the use of obligations and linking them to affordable housing provision;
- **Readily accessible guidance** particularly on websites, to provide understandable information to provide clarity to applicants as to whether an obligation is likely to be required;
- **Heads of Terms** that are submitted to the planning authority with the planning application can save time and provide clarity later in the negotiation process. A requirement to make this mandatory before a local planning authority validates the application may be beneficial. But this will not work in instances where the issues requiring obligations only become apparent after submission. In any case, Heads of Terms can and should be agreed before the resolution to grant permission;
- **Pre-application discussions** should cover planning obligations to bring out any relevant issues and give the opportunity for all interested parties to become involved to limit delays when it comes to signing the agreement;
- **Drafting of the legal agreement** does not have to be undertaken by the local authority, particularly if they lack the resource to do this, but can be done by the applicant. The final agreement still has to be agreed by the local planning authority. The use of standard agreements and clauses would also overcome this issue;
- **Planning Obligation Managers** are being employed by some local authorities, funded by section 106 contributions. This focused and skilled resource can bring significant benefits to the way that agreements are negotiated and monitored;
- **Third party mediation** has benefited applicants and authorities alike by helping bring negotiations to an agreement. This is particularly useful where planners do not understand cost and economic viability issues.

Circular 5/05 and good practice guidance addressing many of these points are already in place. However, not all applicants or local planning authorities are following this. Greater promotion of good practice would be beneficial, possibly via the Planning Advisory Service, which operates a successful forum for planning obligation officers to exchange information and advice.

Existing practices could ideally be standardised to three key stages:

1. Good pre-application information to provide certainty for local authorities and applicants alike. This should consist of published (including on websites) standard agreements and clauses, transparent formulae, local development framework policies, clear guidance and effective pre-application discussion.
2. Heads of Terms submitted with the application, and which should be agreed before the resolution to grant permission.
3. Final negotiation and agreement using standard agreements, clauses and formulae wherever appropriate.

We want clarity on the inter relationship between CIL and planning obligations, and for ongoing issues regarding conditions and validity to be resolved. We want greater use of good practice to reduce timescales and provide clarity.

Recommendation 7 – To reduce the time taken to agree planning obligations (section 106 agreements), Government should produce proposals for scaling back the use of planning obligations in the context of the introduction of the new Community Infrastructure Levy (CIL) and for further improving the process leading to an agreement, by:

- rewriting Government guidance to clarify the relationship between CIL and planning obligations, including scaling back the use of section 106; the use of planning (including Grampian) conditions and section 106 agreements; and contract validity and complexity issues.

In addition, to provide certainty for both applicant and authority and reduce the time taken to reach a finalised section 106 agreement, Government guidance should include a clear expectation that:

- local planning authorities should ensure good pre-application information is available, consisting of published standard agreements and clauses, transparent formulae, unambiguous Local Development Framework policies and effective pre-application discussion;
- applicants should submit draft Heads of Terms for any section 106 agreement at the same time as the application is submitted;
- section 106 agreements should use standard agreements, clauses and formulae wherever possible.

3.5 Minor Amendments to Planning Permissions

Concerns have been expressed from both applicants and local planning authorities about the lack of flexibility relating to what are commonly called minor amendments to planning permissions. Practice is varied, but in some cases, in order to make relatively small changes to schemes, some applicants are being asked to submit a further full planning application. As well as delay, cost and uncertainty for the applicant, this causes additional work for the planning authority and unnecessary consultation with stakeholders.

The current Planning Bill proposes to allow minor non-material variations to be made to a planning permission, without the need for a new application. A similar approach has been in place in Scotland for many years and has proved to be successful. However, while it is entirely reasonable for a complete new application to be required if a significant material change is proposed, we do question whether a full new application is appropriate for only more minor material changes.

The system for minor material changes could be made simpler, quicker and more efficient if reconsideration was limited to only the requested amendments. There are two key issues to be addressed if this proposal is to be taken forward.

Local Authority Discretion

Local planning authorities should be given the power, which may require primary legislation, to allow changes that are material but which, in the opinion of the authority, will not alter the impact of the development on interests of acknowledged importance in a harmful way. Such a judgement could be based on set criteria, such as:

- the degree or extent of the proposed alteration;
- the scale of the change;
- the effect or impact of the change; and
- conformity with planning policies.

A streamlined process

There also needs to be a streamlined process for dealing with material amendments to existing permissions. One option could be that only the amendment(s) would require a new application and only the amendment (provided it does not affect other key aspects of the scheme) could be considered. Although this would provide greater clarity and consistency, it could also add bureaucracy to the system. On the other hand, leaving too much discretion and uncertainty to the local planning authority could add little to the current arrangements, with little or no consequential improvement.

We want to introduce a more proportional and efficient process for dealing with minor material changes to existing planning permissions.

Recommendation 8 - Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted, by:

- amending primary legislation, if required, so as to allow:
 - discretion for a local planning authority to vary an existing permission where it considers that the variation is not a significant material change. This change should be supported by guidance for applicants and local planning authorities as to what does (and does not) constitute a minor amendment;
 - a simple and quick process, using the Standard Application Form, to deal only with minor amendments.

3.6 Planning Appeals

In our Call for Solutions we noted that the Planning White Paper (May 2007) and the associated consultation paper on appeals proposed some fundamental changes to how the appeals system operates. In the light of the consultation responses on the White Paper, the Government included measures in the Planning Bill to improve the appeal process and announced its intention to take forward a range of other improvements through secondary legislation. In the light of the changes already proposed, but not yet implemented, we considered that the value of identifying further changes at this stage appeared limited.

Notwithstanding these comments, some of those responding to the Call for Solutions suggested that the appeals process should form part of our review. However, although this point was raised on occasions, it was not repeated often and was not a point strongly made. Some respondents suggested that there should be shorter targets for appeal determination, while others acknowledged that one Inspector could make a decision more quickly than a whole group of councillors sitting on a committee! Some groups also suggested that a third party right of appeal would make the overall system more open and transparent, while others suggested that the appeals process should be reviewed so as to better balance the rights of applicants, councils and communities. Finally, it was also suggested that the appeals process needs to be made more “friendly and flexible” than it is at present.

Having carefully considered the points raised, we remain of the view that recommending further change before the earlier round of changes have been implemented would not be productive, particularly as some of the points raised may be addressed by the changes already in the pipeline, save for the one point about mediation (see Chapter 4), which deals with a new issue.

4. Improving Engagement

Good planning is a positive and proactive process that involves making plans for, and taking decisions about, the future development of a local area which are in the public interest. A good planning system has at its heart the need to take into account a range of relevant considerations in evaluating and determining planning applications. These considerations include not only the impacts on neighbours and others who may be directly affected by a proposed development, but also the possible positive and negative impacts on other sectors of the local and wider community. It is therefore crucial to the process that there is effective engagement of all relevant interests in the evaluation and determination of applications. The simpler, user-focused policy framework which we advocate in Chapter 6 will help to open up the process and facilitate better engagement.

In addition, in a plan-led system, engagement in the planning application process needs to be set in the context of engagement in the plan making process. As the new PPS 12 on local spatial planning makes clear, effective engagement across the board is key to the development of core strategies, and this needs to include business as well as residents and delivery stakeholders, such as regulatory agencies and infrastructure delivery agencies. Local planning authorities must produce Statements of Community Involvement (SCI) which should enable communities to “know how they can expect to be involved in wider decision making and should remove duplication, combat consultation fatigue and make the most of opportunities to maximise the strengths of different skills and resources”. This seems to us to suggest that, where there has been effective engagement in the preparation of the local development framework (LDF), there should be less need for engagement on specific applications which are in line with the LDF. We think this should be a useful principle for local planning authorities to follow in preparing their SCIs.

4.1 Local planning authorities are required to involve a wide range of organisations in the planning application process

A manifestation of the complexity of the planning system that we discuss further in Chapter 6 is in the arrangements for consultation on planning applications.

4.1.1 Who are the consultees?

To begin with, there are “statutory” and “non-statutory” consultees. Statutory consultees are those which the local planning authority is legally required to consult through a statutory instrument, usually the General Development Procedure Order (GDPO), but, in some cases, a specific piece of legislation (e.g. the Town and Country Planning (Aerodromes and Technical Sites) Direction 1992). Non-statutory consultees, on the other hand, include those where consultation is recommended in national government guidance, such as circulars or Planning Policy Statements or Guidance. In addition, the local planning authority may choose to consult other bodies with a particular local interest or involvement. There are also requirements to notify neighbours and to advertise the application; we see no reason to recommend changes in relation to the notification of neighbours, which is critically important, but we do address the issue of advertising applications in Chapter 5.

In this section we want to focus specifically on the nationally specified requirements for consultation. A review in 2001³⁷ included a summary of statutory and non-statutory consultation arrangements set out in national legislation or guidance at that time. This summary is presented in tabular form below.

Consultee	Statutory	Non-statutory
British Waterways Board	✓	
Civil Aviation Authority	✓	
The Coal Authority	✓	
Commission for Architecture and the Built Environment (CABE)		✓
County Archaeological Officers		✓
County Planning Authorities	✓	✓
The Crown Estate Commissioners	✓	
The Department for Culture, Media and Sport	✓	
District Planning Authorities	✓	
English Heritage	✓	✓
English Nature (now Natural England)	✓	✓
Environment Agency	✓	✓
Forestry Commission	✓	✓
Garden History Society	✓	
Greater London Authority	✓	
Health and Safety Executive	✓	✓
Highways Agency	✓	✓
Inland Revenue (now HM Revenue and Customs)		✓
Local Authority Environmental Health Officers		✓
Local Highway Authority	✓	
Local Planning Authorities	✓	
Minerals Planning Authorities		✓

³⁷ Department for Communities and Local Government (2001) *Statutory and non-statutory consultation report*. London.

Consultee	Statutory	Non-statutory
Ministry for Agriculture, Food and Fisheries (now the Department for Environment, Food and Rural Affairs)	✓	✓
Ministry of Defence	✓	✓
Navigation Authorities		✓
Parish and Community Councils	✓	
Police Architectural Liaison Officers and Crime Prevention Design Advisers		✓
Rail Network Operator	✓	✓
Rights of Way Interests, including: <ul style="list-style-type: none"> • Auto Cycle Union • British Driving Society • British Horse Society • Byways and Bridleways Trust • Chiltern Society • Cyclists' Touring Club • Open Spaces Society • The Ramblers' Association • Peak and Northern Footpaths Society 		✓
The Secretary of State for Trade and Industry (now Business, Enterprise and Regulatory Reform)	✓	
Sport England	✓	✓
The Theatres Trust	✓	
Toll Road Concessionaires	✓	
Waste Disposal Authorities		✓

Note that many consultees may be statutory for some issues and non-statutory for others. Since this report was published, other organisations have been added (although none has been removed), including Regional Development Agencies and Regional Assemblies.

The number of statutory and non-statutory consultees defined at national level has grown, and continues to grow, over time. It appears ad hoc with little coherence or common rationale. It includes local community representatives, relevant regulatory agencies and some, but not all, infrastructure delivery agencies. The organisations listed in the table suggest a wide range of purposes for

consultation including: to obtain technical input on a specific issue (e.g. nature conservation), to ensure the provision of adequate infrastructure needs (e.g. road infrastructure), to prevent new development having an unacceptable impact on the property/interests of the consultee, and to ensure community involvement (e.g. consultation with parish and community councils).

We deal with community engagement in more detail in subsequent sections. For other types of consultation, we believe the arrangements at national level need to be rationalised. In this process, it would be helpful to distinguish more clearly between different types of consultee according to the purpose for consulting them. We understand that CLG is considering a review of statutory consultation arrangements. We welcome such a review and consider that it provides a timely opportunity for a fundamental review of all of the arrangements for statutory and non-statutory consultation identified in both legislation and national guidance.

As, in practice, there is little difference between statutory and non-statutory consultation defined nationally, in that local planning authorities treat both as a requirement we believe there is merit in having just one category – statutory consultation – for all bodies identified at a national level. Furthermore, there should be a single composite list of such consultees, which is kept fully up to date, to provide an authoritative source that everyone could rely on to identify relevant consultees.

In rationalising the list of consultees defined at national level, it would be helpful if there was a coherent, consistent set of criteria established (which could possibly be different according to the purpose for consultation) which organisations would need to satisfy to become a statutory consultee in the process. Such criteria could include, for example:

- that the organisation was able to demonstrate the **relevance** of the issue it wished to address through the planning system to the Government's stated objectives for the planning system;
- that the organisation was able to demonstrate that it was **essential**, in order to fulfil a statutory duty or achieve its own objectives, for issues within its remit to be addressed within the planning system. Thus, where other regulatory regimes already addressed the issue, for example, it would not be essential for it to be addressed through planning;
- that the organisation was able to demonstrate that addressing the issue through the planning system would be an **effective** way of delivering its desired outcomes;
- that the organisation was able to demonstrate that the **benefits** of its involvement are in the public interest and outweigh the **costs** involved;
- that the organisation was able to provide **clear criteria** to enable local planning authorities to decide when consultation with the organisation was necessary; and
- that the organisation was able to demonstrate that it could commit the **resources** to support its input into the planning system, including resources to input into the plan making process,

to support pre-application advice to, and discussions with, applicants, to provide timely and helpful advice to local planning authorities when consulted on applications, and, where necessary, to support the discharge and monitoring of planning conditions and to provide support at appeal.

These proposals are not intended to prevent local planning authorities from consulting with other organisations, but to ensure that, where there is a national requirement to consult, this requirement is firmly rooted in legislation, is set out clearly in one place, and is only imposed where clear criteria are met.

Where local planning authorities propose to consult other bodies, including bodies with a local interest or involvement, these bodies and the criteria for consultation should be identified in the Statement of Community Involvement.

4.1.2 The role of consultees in the process then needs to be clarified

The GDPO makes clear that the role of statutory consultees is to provide advice to the local planning authority. The only exceptions are the Highways Agency, which has a power to give directions restricting the grant of planning permission under Articles 14 and 15 of the GDPO, and the London Mayor who has a similar power of direction. Other statutory consultees need to provide a substantive response, which is one which³⁸:

- states that the consultee has no comment to make;
- states that, on the basis of the information available, the consultee is content with the development proposed;
- refers the consultor to current standing advice by the consultee on the subject of the consultation; or
- provides advice to the consultor.

According to the GDPO, “the local planning authority shall not determine the application until at least 21 days after the consultee has received a copy of the application and shall take into account any representations received from the consultee”.

Formally, therefore, it is the role of the statutory consultee to respond as indicated above (no comment, content, standing advice, or advice) and for the local planning authority to make the decision on the application taking the response into account. In practice, many consultees use the term “objections” in the context of their responses on the grounds that, unless they use this term, local planning authorities tend to ignore their advice. But, local planning authorities can then become reluctant to grant planning permission against an objection from a statutory consultee, which is the expert on the issue.

³⁸ As set out in the 2005 amendment to the GDPO – SI 2005 No. 2087.

We think there should be scope for statutory consultees to provide a wider range of responses which give more of an indication of the strength of any concerns about a proposed development. Instead of the current response of “advice”, statutory consultees could then indicate, for example, whether:

- they were broadly content but had a few minor concerns;
- they had many minor concerns;
- they had major concerns; or
- they considered the development to be unacceptable.

This would enable them better to prioritise their own involvement, and allow them to provide a better indication to the local planning authority over how deep their concerns are. It would avoid the problem of possible over-use of the term objection to ensure they had the local planning authority’s attention.

We think that statutory consultees should then publish statistics on their responses to consultation which show a breakdown of the type of response provided. The current arrangements require statutory consultees to provide annual returns to CLG on the timeliness of their responses. However, CLG does not have the resources to chase or analyse these returns. A simpler approach, which requires each statutory consultee to publish, on its website, its own statistics, not only on timeliness but also on the type of response provided, would seem preferable. The Environment Agency already publishes similar information on its responses to flood risk consultations.

Local planning authorities are also often reluctant to take a decision in the absence of a response from certain statutory consultees (usually those providing advice on public safety issues, such as the Environment Agency on flood risk, the highway authority or Highways Agency and the Health and Safety Executive), even though they are entitled to do so after 21 days. While local planning authorities may not be unduly concerned about a lack of response from, say, the county archaeological officer, where the proposal is outside any area of acknowledged archaeological importance, they are usually reluctant to make a decision on an application where a response is still awaited from the local highway authority, even though the 21 day time limit may have been exceeded.

Thus, while many replies to our Call for Solutions have called for a strict timescale for responses from statutory consultees to be imposed, and for responses after that time to be invalid, this would be little different in practice to the situation that currently applies. We do not believe it will be possible to force local planning authorities to determine applications in the absence of a response from a consultee that is providing advice on matters such as those affecting public safety. In addition, imposition of a strict deadline seems likely to increase the number of holding objections from consultees, where they object pending the receipt of further information.

However, we do see scope for a clearer re-statement of the roles of local planning authority and statutory consultee which incorporates the amendments recommended above.

Another consequence of the natural reluctance of local planning authorities to make a decision against an objection from a statutory consultee is that, instead of the local planning authority taking a decision on an application which balances the impacts of the development on, say, environmental quality, transport infrastructure, heritage assets, against the benefits of the development, it will use the objections of the statutory consultees to refuse or severely constrain the application. Instead of the advice from statutory consultees being weighed in the balance, their objections become a series of hurdles which the developer has to overcome.

This is another consequence of the policy complexity we consider in more detail in Chapter 6. And other legislative requirements, some of them stemming from European or international obligations, also play a role here, requiring protection, for example, of endangered species, which may rule out development in all but very exceptional circumstances. As the Bat Conservation Trust pointed out in its response to our Call for Solutions according to the Natural Environment and Rural Communities Act 2006, *“every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”*.

This difficulty is well illustrated by the problems experienced by on-shore wind energy developments. Increasing the proportion of energy from renewable sources is a key component of the Government’s sustainable development strategy. However, when the various constraints on developments reflecting the concerns of various statutory consultees (including, for example, Natural England and the Ministry of Defence) are superimposed, only a few isolated areas of the country appear to remain available for on-shore wind farms. According to the Association of Energy Producers, the proportion of energy needs provided from renewable sources could be 5-6 percentage points higher by now if wind energy proposals were not continually being delayed or refused by the planning application process. This is seriously compromising achievement of the Government’s targets for renewable energy.

Clearly, rather than attempting to address all these issues when considering individual applications, local planning authorities should use the local development framework as the most appropriate opportunity to reconcile the sometimes contradictory objectives of different parties in developing a plan for managing the future development of their areas. Equally, if issues have been consulted on and addressed in the local development framework, it seems wasteful of resources to consult on these issues again on an individual application which is fully in line with the local development framework.

Although few approved local development frameworks are currently in place, our expectation is that, given the current economic downturn and the new incentive structure for local planning authorities, many more will be in place in the foreseeable future. In these circumstances, our view is

that applications which are fully in line with an established local development framework, on which statutory consultees have been consulted, should not need further extensive consideration by the statutory consultees. We recommend that, in developing a revised approach to consultation, the Government introduces an expectation that there should generally be no need for further consultation where the application is for development which has already been tested thoroughly through the plan making process. This would not preclude local planning authorities from consulting on further technical details if they felt this was necessary.

4.1.3 Problems with over-consultation

Some of the current consultees are required to be consulted only in very specific circumstances. For example, the Theatres Trust is to be consulted only on development involving any land on which there is a theatre.

Other organisations can need to be consulted in a wide range of circumstances. At the most extreme, the Environment Agency is to be consulted on developments:

- with flood risk issues;
- involving mining operations;
- involving work in the bed of or on the banks of a river or stream;
- for the refining or storing of mineral oils;
- involving the use of land for the deposit of refuse or waste;
- relating to the retention, treatment or disposal of sewage, trade-waste, slurry or sludge;
- relating to the use of land as a cemetery;
- within 250 metres of land which is or has been used for the deposit of refuse or waste;
- for the purpose of fish farming;
- which could have significant repercussions on major accident hazards;
- associated with the needs of navigation;
- which could lead to increased industrial discharge into a river or estuary;
- of hydro-electric power generation schemes or of wood-fired generating plants;
- which are potentially polluting;
- of specified types which are to be sited within 500 metres of an installation subject to relevant pollution control legislation; and
- for minerals extraction or quarrying for silica sand.

Some statutory consultees provide detailed advice on when they must be consulted and on the information which must be provided to them to enable them to respond. For example, the Environment Agency’s consultation matrix on development and flood risk clearly sets out when it needs to be consulted on flood risk issues, when standing advice should be followed, and when a flood risk assessment is required. The Environment Agency also provides a pro forma to help applicants provide sufficient material to enable it to make a detailed response to pre-application discussions on issues such as flood risk. The Environment Agency was consulted about flood risk on 10,854 applications in 2006/07, representing just 1.8% of all applications³⁹.

There appears to be less clarity over when consultees need to be consulted on other issues. As a result, local planning authorities are left unsure whether they need to consult, and consultees receive applications they do not need to see and fail to be consulted on applications they do need to see. The Environment Agency received around another 21,000 applications in 2006/07 (representing about 3.5% of the total) for consultation on issues other than flood risk, in many cases without an indication from the local planning authority of why it was being consulted.

The Environment Agency has been working with local planning authorities to reduce the numbers of applications sent to it for consultation, but agrees that it is still consulted on too many applications. The figure of 21,000 applications contrasts with the number of consultations on flood risk grounds and with the numbers of consultations received by other national statutory consultees summarised in the table below.

Consultee	No. of consultations	% of applications
English Heritage	15,000	2.6
Natural England	2,200	0.4
Highways Agency	3,300	0.6
MOD	1,400	0.2
British Waterways	2,600	0.4

English Heritage estimates that it does not need to see around 10-11% of the applications it receives.

For consultation with local highway authorities, there appears to be a considerable problem with over-consultation. The legislative requirement set out in the GDPO leaves considerable scope for interpretation, and there is evidence that different local planning authorities interpret it in many different ways. Annual returns submitted to CLG from local highway authorities indicate that some highway authorities are consulted on more than 50% of all applications, whereas others are consulted on only 25%⁴⁰. Further information provided by local planning authorities with whom we have engaged over the summer indicates a wide range of approaches to consultation. In some planning authorities, all applications are reviewed by the highway authority and it is the highway

³⁹ Environment Agency (2007) *High Level Target 5 – Development and Flood Risk in England 2006/07: Report to DEFRA and CLG*. Environment Agency, Bristol.
⁴⁰ See Call for Solutions, Appendix 2.

authority which decides which applications it wishes to provide advice on. This approach is more common in unitary authorities where the highway authority is part of the same local authority as the planning authority. In other areas, a representative of the highway authority visits each planning authority on a weekly basis to review all applications. Levels of consultation using this approach can be 70% or more.

Other local planning authorities rely on judgement or informal guidelines in deciding whether the highway authority should be consulted. These guidelines differed from one local planning authority to another, and we were told that it was quite possible for different approaches to be used by two planning authorities within the same highway authority. In a very few local planning authorities, there is a formal service level agreement between the planning authority and the highway authority setting out when consultation should and should not take place. One local planning authority recently reduced the percentage of applications referred to its highway authority from 78% to 40% by introducing clear guidelines. But, we also came across an example where the highway authority wished to establish a service level agreement with its planning authorities, but met with resistance, because the planning authorities liked to have a response from the highway authority in case of an objection.

Such an absence of a consistent approach to consultation is helpful to no-one and provides far too much opportunity for over-consultation “to be on the safe side”. It also sits uneasily with complaints about lack of resources, particularly when they are used to justify difficulties with taking part in pre-application discussions.

To ensure consistency, and prevent over-consultation, which places unnecessary burdens on their own limited resources, we believe that statutory consultees should provide better guidance to local planning authorities, including clear thresholds on when they must be consulted. This needs to be clearly linked to what is set down in statute, but must do more than just repeat what is in statute. An example of good practice in this respect is the Environment Agency’s flood risk matrix (although we have seen an example where even this has been wrongly interpreted by a local planning authority in advice to applicants).

In the case of local highway authorities, where the evidence suggests some of the biggest problems of over-consultation occur, the County Surveyors’ Society could play a useful role in developing nationally consistent guidance, including criteria and thresholds, to help both local planning authorities and local highway authorities with decisions on when consultation on highway issues needs to take place.

As well as clearly defining when they do not need to be consulted, there is scope for consultees to make greater use of the opportunity to provide standing advice. This is standard advice covering lower risk developments, where a specific response from the consultee is not needed. The advice is often made available on the consultee’s website, which local planning authorities can refer to, thus avoiding the need for a specific consultation request. Again, the Environment Agency’s flood risk standing advice provides a good example.

4.1.4 Providing a better response

According to the (admittedly incomplete) returns submitted to CLG, statutory consultees' timeliness of response would appear to be generally good. In contrast, the parallel study to this review by the National Audit Office⁴¹ found high levels of dissatisfaction with consultees' performance, while our own case study research⁴² (which admittedly has included a high proportion of applications which took longer than the target timescale to be determined) found that the average response time from consultees was just under six weeks, with a maximum, in one case, of 21 weeks.

There is also evidence that many responses, while they may be within the 21 day timescale, are holding responses, pending the resolution of issues or the receipt of further information. For example, the Environment Agency's report on its responses on flood risk show 64% of its objections were due to a lack of, or unsatisfactory, flood risk assessment or insufficient information. Our case study research also found numerous cases where the consultee's response was in essence a holding response, acknowledging receipt of the consultation request and either asking for more information or clarification of existing information. Clearly, applications lacking required information should not have been accepted as valid by the local planning authority, let alone sent on for consultation. But the high proportion of holding responses provides further evidence of the need for greater clarity over requirements.

It is also relevant to consider the extent of involvement in pre-application discussions. National statutory consultees are generally consulted on a small proportion of applications, and these could be expected to be those raising more complex issues where pre-application discussions should form an essential part of the application process. Yet, the number of pre-application responses by statutory consultees is never more than 20% and generally only around 5% of the number of application responses provided. All statutory consultees agree on the desirability of engaging with applicants at pre-application stage, yet appear to encounter difficulties in doing so. Given that some guidance on what information needs to be provided with some applications (e.g. the Department for Transport's Guidance on Transport Assessment) is based on the assumption that pre-application discussions will take place between applicant and statutory consultee, the relatively low numbers of pre-application responses provided by statutory consultees indicates a considerable gap between expectations and reality.

Resource constraints in both local planning authorities and statutory consultees mean that the involvement of statutory consultees needs to be focused on where it can most effectively deliver the intended outcome. In our view, this means focusing the involvement of statutory consultees further upstream in the process. So, instead of having to request the inclusion of conditions in a planning consent to address the concerns of a statutory consultee, the concerns should be identified at pre-application stage. This allows the design of the development to address the concerns in a more holistic way, and offers more opportunities for enhancement rather than just mitigation.

⁴¹ National Audit Office (2008) *Planning for Homes: Speeding up planning applications for major housing developments in England*, London.

⁴² Addison & Associates and Ove Arup & Partners Ltd (2008) *Killian and Pretty Review: Final Report - Case Studies*. Department for Communities and Local Government, London

If the extent of statutory consultation can be reduced by our earlier proposals, this will free up the resources of both local planning authorities and statutory consultees and enable a greater focus on pre-application discussions. All statutory consultees agree that this is desirable. Many have expressed a preference for pre-application discussions to be made compulsory. As discussed in Chapter 3, we are not recommending compulsory pre-application discussions at this stage, but we do wish to see pre-application discussions involving statutory consultees being the norm rather than the exception. We believe statutory consultees could do more to ensure that they make the resources available to engage in meaningful pre-application discussions. Demonstration that statutory consultees can commit sufficient resources to support pre-application discussions could be included in the criteria for becoming a statutory consultee (see above). In addition, changes could be made to the process to allow local planning authorities to assume that, where a consultee has been unable to resource involvement in pre-application discussions when invited to do so, the consultee does not wish to be consulted on the subsequent application.

The need for consultation is sometimes accompanied by a need for some form of assessment (e.g. environmental impact assessment, flood risk assessment, transport assessment, ecological assessment) setting out how the proposed development could impact on the issue of concern to the statutory consultee and what mitigating measures are proposed to reduce the impact. Preparation of such assessments usually requires specialist expertise, and the applicant would generally employ a consultant. It is not unknown for statutory consultees to employ their own consultant to carry out their own independent assessment. We believe there is more scope to agree the basis and scope of such assessments to enable them to be carried out once, and for the results then to be made available to all parties, avoiding duplication of effort. The Highways Agency framework commissions include a provision to allow its consultants to work independently, free of influence from the Agency or the developer concerned, to produce transport assessments available to all parties. The response to the Call for Solutions from the Regional Development Agencies provides a further good example:

“on the South Humber Bank the lack of comprehensive data relating to migratory birds and the location of their high roosts had caused considerable delay to a number of planning applications, as each individual application was required to undertake a survey of migratory birds. Jointly, funded by several public sector agencies, this data has now been collated and is available to prospective applicants, helping to reduce delays and duplication of work for individual applications”.

4.1.5 Accountability for advice

A complaint made by local planning authorities is that, if they refuse an application on the basis of advice from a statutory consultee and the applicant appeals, they often do not receive sufficient support from the statutory consultee in the appeal process. It has been suggested that it should be possible for costs to be awarded against statutory consultees if a decision based on their advice is

overturned on appeal. The Costs Circular already provides for this, but we believe that, as part of the proposed review of that circular, CLG should look at whether the provisions in relation to costs can be strengthened so as to make it easier for an award of costs against a statutory consultee where they have acted unreasonably.

Recommendation 9 – Government should clarify and improve the process for consulting on applications so that it is clearer which organisations need to be consulted, when they must be consulted and why, what response is required, and how the response should be taken into account in the decision by the local planning authority, by:

- using the opportunity of a planned review of consultation arrangements to carry out a fundamental review of all of the arrangements for statutory and non-statutory consultation;
- including all consultees identified at national level in a single unified list of statutory consultees;
- drawing up a coherent, consistent set of criteria which organisations would need to satisfy to become a nationally defined statutory consultee in the planning process;
- introducing an expectation that, where an application is received which is fully in line with the Local Development Framework, on which they have already been consulted, planning authorities should only consult statutory consultees on those details that have not already been subject to consultation;
- setting out a clear re-statement of the roles of local planning authority and consultee in the planning application process and, in particular, the primacy of the local planning authority in determining the application;
- allowing nationally defined statutory consultees greater flexibility to indicate the strength of any concerns when providing advice to the local planning authority;
- requiring nationally defined statutory consultees to report, not only on the timeliness of their responses, but also on the nature of their advice, by publishing annual returns on their websites;
- requiring nationally defined statutory consultees to provide better guidance to local planning authorities, including clear criteria and thresholds on when they must be consulted;
- requiring that, for developments where they would be consulted at application stage, nationally defined statutory consultees ensure they make the resources available to engage in meaningful pre-application discussions; and
- in the forthcoming review of the award of costs circular, clarifying the situation over the award of costs against statutory consultees to penalise unreasonable behaviour on the part of a statutory consultee.

4.2 Council members need more clarity over their role

Councillors are the elected representatives of the local community. They have a dual role in planning: they represent their constituents; and those on the Planning Committee form the decision making body on planning applications.

The tension between these roles has grown with the rising opposition to development, new responsibilities on councillors under revisions to legislation, and the increasing complexity of planning.

A distinction needs to be maintained, however, between the role of elected members and the role of planning officers. Councillors are not, and should not be expected to be, planning experts. As summarised in the recent House of Commons Select Committee report, it is the role of the planning officer to provide the planning expertise; it is the role of the councillor to provide the non-specialist challenge and ensure that decisions reflect the needs and desires of the wider community. We have heard criticism of the non-professional input of elected members, but this is precisely their role. Greater clarity over these roles and their differences would therefore be helpful.

4.2.1 Training for elected members

It is clearly important that councillors on the planning committee have a good understanding of the parameters of their decision making role. Some responses to the Call for Solutions have reiterated complaints that planning committees will refuse applications that they know will be allowed on appeal in order to duck the responsibility for taking an unpopular decision. We recognise that the involvement of elected members could be improved and that training can play a part. However, shortcomings in the relationship between planning officers and elected members can also be responsible for problems. The planning committee needs to have trust and confidence in their planning officers. As well as being skilled and experienced planners, senior planning officers need to have the skills necessary to manage the relationship between the planning department and the members of the planning committee and engender this trust and confidence. In particular, they need to respect the role of councillors in their communities.

The response to the Call for Solutions from Dr Malcolm Tait of the University of Sheffield provides a summary of research investigating the building of trust between parties engaged in the development management process. The research concluded that more informal mechanisms for engagement with elected members were valuable to a better understanding between members and officers, and identified good practices, such as members routinely asking officers about applications, and providing forums for advice to be given to officers by members. Such practices allow members to be kept up-to-date with applications and officers to develop an understanding of members' concerns.

From interviews with a number of elected members, the research further found that:

“there seemed some uncertainty as to how they might conduct themselves with regard to members of the public. There appeared to be some concern that policies to ensure probity (such as not voicing an opinion on an application before a committee meeting) were constraining to their role. Fear of malpractice seems to have generated policies (and interpretations of guidance) which negatively affect the abilities of members to carry out their legitimate representative role. Clearer training for members may help in this regard, as may an approach to formulating policy and guidance on member-public interaction which recognises the legitimate role of councillors to speak to their constituents, the wider public.”

Acknowledging their distinct role, there is a general consensus on the value of providing councillors with training which clarifies this role. The continuing area of debate is on whether or not training should be mandatory and, if so, whether mandatory for all councillors or only those serving on the planning committee.

Mandatory training in planning for councillors was strongly advocated by the Nolan Report⁴³ and reiterated by the Barker Review⁴⁴. Some reports⁴⁵ recommend compulsory planning training for councillors, while the Nolan Report and a survey carried out by the Local Government Association, the Office of the Deputy Prime Minister, the Royal Town Planning Institute, and the Improvement and Development Agency⁴⁷ further advocate training as a pre-requisite for sitting on the planning committee.

On the other hand, the Egan Review⁴⁷ and the report of the House of Commons Select Committee⁴⁸ do not agree that training should be mandatory. This is despite the latter report acknowledging that *“most of the evidence taken by our inquiry favours some form of compulsory or mandatory training for councillors, particularly for councillors who are local cabinet members in charge of planning policy or who serve on planning committees”*.

Responses to our Call for Solutions have also largely called for training of councillors to be made mandatory. Messages to the review from councillors themselves and senior representatives of local government at the nine regional stakeholder events were that there is a desire from councillors for training in planning. However, evidence from these events is also that councillor take-up of voluntary training varies considerably across authorities, with average attendance rates of 25-50%.

There is a significant precedent for mandating training: training in the Code of Conduct for councillors⁴⁹ is compulsory for all councillors and a requirement of their admission to office. Councillor failure or refusal to attend this training is grounds for breach of the Code of Conduct and may lead to councillor’s suspension or disqualification.

⁴³ Nolan, Michael Patrick, Baron Nolan (1997) *Third Report of the Committee on Standards in Public Life: Standards of conduct of local government in England, Scotland and Wales – Vol 1 Report*. The Stationery Office, London

⁴⁴ Barker, Kate (2006b) *Barker Review of Land Use Planning: Final Report - Recommendations*. HM Treasury, London

⁴⁵ Planning Advisory Service (2008) *Making your mind up: Improving planning decision making*. Improvement and Development Agency, London

⁴⁶ Department for Communities and Local Government (2007) *Councillor Involvement in Planning Decisions*. London

⁴⁷ Member training in planning. Available at <http://www.rtpi.org.uk/download/746/Member-Training-in-Planning.pdf>

⁴⁸ Egan, Sir John (2004) *The Egan Review: Skills for Sustainable Communities*. Office of the Deputy Prime Minister, London

⁴⁹ House of Commons Select Committee on Communities and Local Government (2008) *Eleventh Report: Planning matters – labour shortages and skills gaps*. The Stationery Office, London

⁴⁹ The Local Authorities (Model Code of Conduct) (England) Order 2001. SI 2001 No 3575.

We do not agree that mandating training will prevent councillors from fulfilling their “*unique role... in the planning application process*”, as suggested by the House of Commons Select Committee Report (para 96). Greater understanding of their role in planning will not compromise their representation of the local community but complements this duty.

However, aside from the cost implications for local authorities, which we do not believe need be significant, there would be practical difficulties with making training mandatory. For example, how would major changes to the make-up of the council following an election be accommodated? We are also aware that training is not required for councillors involved in other important local authority services.

We were unable to agree, therefore, to a recommendation for compulsory councillor training. Instead, we recommend that local planning authorities should give the strongest encouragement to councillors to undertake appropriate and effective training.

We believe that training should be aimed at all councillors, but should have regard to the different roles fulfilled by the cabinet member and/or the chair of the planning committee. It needs to acknowledge that councillors have a different role to planners and be fit-for-purpose, covering councillors’ strategic role in plan making, decision-making, and relevant planning topics (for example, environmental impact assessments, design, sustainability, material considerations), with the aim of better equipping members to act as representatives on planning matters. If all councillors have been trained, this would enable councillors to deputise for planning committee members, if necessary.

In addition, in the interests of optimising the effectiveness of the committee, we believe that the cabinet member with portfolio responsibility for planning should sit on the planning committee. This will ensure continuity between plan making and development management and that the administration’s view on the strategic significance of developments forms part of the decision-making process.

4.2.2 Delegation of decision-making

The recent Planning Advisory Service report⁵⁰ identified how some planning authorities are achieving better planning outcomes by improving the effectiveness and efficiency of the way they make planning decisions by delegation and at committees. The common factors characterising this good practice were identified as:

- maximising the number of delegated planning decisions – delegating higher than 90% of planning decisions, which gives planning committees more time to focus on complex and controversial applications;
- implementing clear systems for reporting on delegated decisions;

⁵⁰ Planning Advisory Service (2008) *Making your mind up: Improving planning decision making*. Improvement and Development Agency, London.

- regularly reviewing the delegation scheme – introducing an appropriate level of scrutiny to reassure councillors and the public that a high rate of delegation does not affect the quality of planning decisions;
- increasing councillor knowledge and awareness;
- briefing councillors effectively;
- improving the quality of information for councillors, stakeholders and the general public;
- managing committee meetings more consistently;
- raising the profile of the planning committee; and
- evaluating and reviewing procedures.

The report includes case studies of local authorities with effective delegation schemes which suggest that *“more than 90% of decisions can be delegated to officers”*.

For example, Wyre Borough Council operates a delegation scheme where the rate of delegation is 95%. Under this scheme the head of planning is authorised to determine all planning applications except where a councillor requests that an application be considered by the planning committee (which they must do within 10 working days of the weekly list of applications being distributed). The head of development control can refer an application which they consider to be significant locally because of its scale, impact on the wider area or the level of public interest.

Mid Devon District Council operates a delegation scheme where the rate is 96%. All applications are delegated apart from those which are:

- considered by the head of planning to be major, controversial or sensitive;
- nominated by a ward member to be considered by the planning committee, based on clear planning reasons;
- a significant departure from policy and which are recommended for approval;
- submitted by the council, an elected member or officer; or
- accompanied by an environmental impact assessment.

A number of schemes, all facilitating delegation rates of higher than 90%, are outlined in the Planning Advisory Service’s report. The variation in the schemes outlined above demonstrates the flexibility of delegation schemes to reflect local circumstances. Some councils have encountered resistance to higher rates of delegation due to concerns that councillors are being excluded from planning decision-making. To counter these concerns, councils have introduced review and scrutiny procedures to reassure councillors that a higher rate of delegation does not lead to a reduction in the quality of planning decisions.

The previous target or best value indicator (BVI) for delegation was set at 90%. Though now removed, the BVI has influenced on-going local authority practice - the latest statistics for development control performance across all local authorities for 2007/8 reflect that the average delegation rate across is the country is 90%.

We acknowledge that delegation rates have improved considerably in recent years and are now, generally, at a commendable level. However, exceptions do exist. These exceptions and the occasions on which councillors devote disproportionate time to applications, given their nature and impact, represent resource inefficiencies. We believe there is still scope to implement best practice in delegation – as set out in the Planning Advisory Service’s report - more widely, and would like to see all councils achieving a minimum delegation rate of 90%.

4.2.3 For larger and/or more controversial developments, council members need to be involved at pre-application stage

We believe that engagement of all relevant interests is particularly important for the larger developments which play the greatest role in shaping the places we live and work, and that this engagement needs to start well before an application is submitted. It is at pre-application stage that concerns and issues, whether about impacts on the local community, or on biodiversity, heritage assets, flood risk, transport and other infrastructure etc, can best be properly addressed and integrated into the scheme design. This means that, as well as community engagement and the involvement of consultees, councillors need to feel better able to engage with proposals for development at pre-application stage.

That councillors should be involved in pre-application discussions is supported by all recent reports on the topic, including the Nolan Report⁵¹, an Audit Commission report⁵², and a study for CLG⁵³, as well as guidance from all of the relevant stakeholder organisations (for example, from CLG and others⁵⁴, the Planning Officers Society⁵⁵, and the Planning Advisory Service and others⁵⁶). The purpose and benefit of pre-application discussions is to address as many possible concerns over a development before an application is submitted. Councillors, as community representatives, play an important part and ‘sounding board’ in that process.

Studies have shown, however, that the extent to which councillors are actually involved in pre-applications discussions varies significantly among authorities, with some limiting or denying councillors involvement, due to concerns about possibly prejudicing their decisions and compromising the council.

⁵¹ Nolan, Michael Patrick, Baron Nolan (1997) *Third Report of the Committee on Standards in Public Life: Standards of conduct of local government in England, Scotland and Wales – Vol 1 Report*. The Stationery Office, London

⁵² Audit Commission (2006) *The Planning System – Matching Expectations and Capacity*. Audit Commission, London

⁵³ Department for Communities and Local Government (2007) *Review of Councillor Involvement in Planning Decisions*. London

⁵⁴ Department for Communities and Local Government, Planning Advisory Service, Local Government Association, Planning Officers Society, Association of Council Secretaries and Solicitors and the Standards Board for England (2008) *Positive engagement: a guide for planning councillors – updated version*. Improvement and Development Agency, London

⁵⁵ Planning Officers Society (2007) *Practice Guidance Note 3: Councillor involvement in pre-application discussions*.

⁵⁶ Planning Advisory Service, Home Builders Federation, CABE, Land Securities Ltd, National Planning Forum, Planning Officers Society, CLG, British Property Federation, Addison & Associates (2007) *Constructive Talk: investing in pre-application discussions*. Improvement and Development Agency, London.

As pointed out in the response to the Call for Solutions from PPS Group: *“the interpretation and implementation of Nolan recommendations has suffered from an overly legalistic ‘precautionary approach’ being promoted and adopted. Put simply, most elected Members have been scared off any contact with any type of planning applicant.”*

The response goes on that *“many local authorities operate a system whereby members of the planning committee are not permitted to be briefed by applicants either pre- or post-submission.....However, there is nothing preventing members from meeting with and being lobbied by opposition groups and members of the community. Whilst this is clearly an important part of the role of being a councillor it creates an unbalanced system. All sides of a debate should be enabled to present their case to elected members.”*

We strongly agree with this view. There must be an opportunity for pre-application engagement with councillors. Legal advice that councillors should avoid all contact with applicants is simply wrong, and it is extremely frustrating that it continues to be advocated. As the recent joint guidance⁵¹ makes clear, the success of the planning system depends on *“effective dialogue between applicants, local authority, local people and other interests to help define and realise the vision [for the area]”* and councillors are advised to *“be prepared to hold discussions with an applicant and your officers before a planning application is made, not just after it has been submitted to your authority”*.

Having said that, other guidance from the Association of Council Secretaries and Solicitors (ACSeS) gives contradictory advice (for example, the Model Members’ Planning Code of Good Practice⁵⁷ advises: *“Don’t agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it”*), so greater clarity on this issue is needed. On a practical level, considerable planning and monitoring officer time and resources can be taken up addressing questions about conduct because of this lack of clarity. Though the evidence is largely anecdotal, at our stakeholder events, officers expressed frustration at the time spent in pre-application and planning committee meetings clarifying councillors’ roles and responsibilities.

An example of a local initiative on this issue was the London-wide guidance issued as a result of a joint initiative involving the Government Office for London, London Councils and London First, supported by the Association of London Borough Planning Officers (ALBPO)⁵⁸. This document concerned major strategic applications but its consultation principles should be applicable for most planning proposals which are bigger than householder applications.

⁵⁷ Association of Council Secretaries and Solicitors (2007) *Model Members’ Planning Code of Good Practice*.

⁵⁸ Government Office for London, London Councils, London First and Association of London Borough Planning Officers (2007) *Connecting Councillors with Strategic Planning Applications: A Good Practice Guide for London*. Available at http://www.londonfirst.co.uk/documents/Good_Practice_Guide_FINAL_13_Nov.pdf

To bring about change in this area will require a change of culture, not only among councillors, but also among planning officers and legal advisers. It will require competent councillors who know what they are doing, and high quality, experienced planning officers able to manage the relationships with the members of planning committee. To support this, we believe councillors and monitoring officers need consistent, practical and accessible guidance, and a revised, simplified Model Members' Planning Code.

In addition, we believe they also need access to authoritative advice from a single point of reference with an understanding of probity and conduct issues in the planning pre-application context. A similar approach was used in 2001 to implement the Model Code of Conduct for councillors, which has led to a demonstrable improvement in the standards of conduct in public life. The Standards Board for England issued guidance on the Code and, most crucially in bringing about a change in behaviour, acted as single point of advice for enquiries from councillors, monitoring officers and the public on councillor conduct. Having a single point of contact for enquiries about councillor conduct in specific case instances ensured advice was consistent and practical.

This same consistency and practicality of advice is required to change and improve councillor involvement in pre-application discussions. Without a single point of contact for case-specific advice, guidance on councillor conduct in pre-application discussions will continue to be differentially applied across authorities – with differing degrees of caution.

We want to improve the quality and robustness of councillor decision-making in planning, improve public confidence in council members, and protect authorities and councillors from complaint or sanction

We want council members to focus their resources on major and locally controversial planning applications.

In the interests of democratic participation in planning and to achieve better outcomes from the planning application process, we want councillors to feel able to participate in pre-application discussions.

Recommendation 10 – That the input of elected council members into the planning application process needs to be better targeted on those developments which will make the greatest contribution to the future development of the area:

To achieve this:

- local planning authorities should strongly encourage all new councillors to attend training on the role of elected members as decision makers in the planning application process, complemented by continuing regular training, including refresher courses for more experienced councillors;
- the councillor with strategic responsibility for planning should be encouraged to be a member of the planning committee, to provide improved consistency between planning policy and planning decisions;
- local planning authorities should review and update their local schemes of delegation, so that the resources of planning committees are focused on applications of major importance or wider significance, and that a minimum delegation rate to officers of at least 90% is achieved at all councils before the end of 2009; and
- local government stakeholders in ethical conduct and planning, such as the Local Government Association, the Standards Board for England, ACSeS and the IDeA should produce clear and authoritative guidance and support to elected members to encourage them to be more actively involved in the pre-application stage of the more significant developments, without prejudicing their decisions or compromising the council. Such guidance and a Model Members' Planning Code should be supported by a single point of contact for case-specific advice.

4.3 We need to ensure developments meet the needs of the whole community

4.3.1 Better engagement of the community as a whole

Wide and well coordinated community engagement in the planning system is of critical importance in ensuring that the system as a whole operates in the public interest and helps deliver sustainable and inclusive development.

The planning system has been substantially reformed to embed community responsive policy making at its heart, through the Local Development Framework (LDF) process. And, of course, the LDF is the physical and geographical expression of the Sustainable Community Strategy, which sets out a community's strategic vision for its area.

With a plan led system, planning applications are determined in accordance with the plan; it follows that early and effective community involvement in plan preparation should improve the quality of decisions, and reduce the time taken to make decisions, on individual applications.

Many steps have been taken to strengthen engagement in plan making, and more steps are planned. However, it is evident that, for many communities, it is often the submission of an application, or the prospect of an application, that galvanises wider community interest in planning the future of an area.

The Call for Solutions specifically asked how community engagement in the planning application process can be made more effective, what role there might be for different forms of engagement, and how necessary changes might be implemented. This is in addition to the statutory requirements to notify owners of land and neighbours of applications, to consult certain bodies, and to publicise applications, which are discussed separately.

The responses to the Call for Solutions confirm that some third parties still feel detached from, or confused by, the current development management system, and many still do not have confidence in it. There are a number of reasons for this, including increased complexity, teething problems with e-submissions, and concerns about pre-application discussions and related issues.

A number of our recommendations will help address these concerns, including the proposals to:

- provide clearer advice to the public;
- encourage further investment and development of e-consultation on applications;
- remove unnecessary complexity from the process and policy framework; and
- encourage greater involvement of elected members at the pre-application stage of the process.

The most significant suggestion to emerge from responses to our Call for Solutions was the value of community engagement at the pre-application stage of the process, particularly in relation to major developments. For example as the Campaign to Protect Rural England states in its response, its website guidance ‘places particular emphasis on local communities getting involved in the process at an early stage.

As each individual case, and all the relevant related issues, will be different, it is clearly the applicant and the local planning authority (with input from relevant local Members, and having regard to the published Statement of Community Involvement) who are in the best position to consider the need for, and the most appropriate type of, pre-application engagement.

However, in our view, the issue of ensuring effective community engagement should be an essential component of an initial discussion between applicant and local authority about all major developments, and may also be appropriate for small scale developments in sensitive locations. This is consistent with our recommendation to substantially improve the pre-application stage of the application process (Recommendation 4).

When required, engagement should be undertaken prior to the formal submission of the application. The outcomes from the engagement should then be built into the formal submission, so that the community and the authority can easily understand what has been undertaken, and then assess this as part of the formal consideration of the application, alongside comments emerging as a result of fulfilling the statutory requirements to consult.

A related point is how best to engage with local communities during the formal application process. In this regard, it was clear from the responses we received that the involvement of civic and amenity societies can be beneficial, in bringing a wide range of relevant skills and valuable knowledge and perspective on local matters. As the example set out in the box below shows, the input of civic societies has assisted the development of better schemes, as has been acknowledged by developers.

The Civic Trust – Example of successful collaboration with St George plc to enhance community engagement:

“The Civic Trust was invited by St George North London to advise on a public consultation with regard to proposals to develop a 25 acre brownfield site in Hendon, north-west London. The Purpose of the consultation was to inform local residents and other stakeholders, such as the university...police and health service, of proposals prior to the submission of an outline planning application.

An information brochure was produced...and a 4 day exhibition was held. The exhibition was advertised in local press and promoted through posters at various locations, and flyers handed out at the tube station.”

http://www.civictrust.org.uk/regeneration/community_stgeorge.htm
(accessed 28th October 2008)

St George plc –

“The Civic Trust was invited by St George to advise on public consultation with regard to proposals to regenerate a 25 acres of brownfield land, now known as Beaufort Park, which was the former RAF East Camp site in Barnet, north-west London. The Purpose of the consultation was to inform local residents, businesses and other stakeholders, such as the university, police and health service, of proposals prior to the submission of an outline planning application.

An information brochure was produced and a 4 day exhibition was held in the neighbouring RAF Museum. The exhibition was advertised in local press and promoted through posters at various locations, and flyers handed out at the tube station.

The Civic Trusts input on community engagement was useful support to the St George development team. It helped to speed up the planning process for the development and consent was granted by the Local Authority.”

We would encourage local authorities to actively seek to build stronger relationships with civic societies and amenity groups, and to publicise the contact details of such groups to the public and to applicants.

More generally, we note and welcome that the recent White Paper on empowerment⁵⁹ earmarked a total of £7.7 million over the next three years (2008/09 to 2010/11) to help improve community engagement in planning as follows:

- Planning Aid – £3.2 million - to provide advice and support to individuals and communities;
- Empowerment Fund – £1.5 million - to support other third sector organisations committed to community involvement in planning; and
- local planning authorities – up to £4 million - to assist local authorities with community involvement in planning.

In our view, it will be important to ensure that these additional funds encourage and facilitate improved community engagement in the planning application process, alongside improvements to engagement in the plan making process.

It is important to ensure that consideration is given, at start of pre-application discussions between the applicant and local planning authority, to how best to engage with the wider community in the development of detailed proposals for major development.

4.3.2 Local planning authorities should be free to make their own decisions about how best to reach their community

We live in the Information Age. Innovations in communication technology, and digital and e-communication have far-reaching implications for the relationship between communities and local government. Regardless of whether the public wish to respond to a planning application notice, they have the democratic right to know about proposed changes in their local area, and effective, and cost-effective means should be used to inform the public of these changes.

Local authorities are currently required to publish certain planning applications in newspapers. The statutory requirements for publicising applications for planning permission, listed building consent and conservation area consent are mainly set out in secondary legislation, namely the General Development Procedure Order (GDPO) 1995 (as amended) and the Planning (Listed Building and Conservation Areas) Regulations 1990. However, there are also requirements in section 67 and 73 of the Planning (Listed Building and Conservation Areas) Act 1990. In tandem with recommendations made elsewhere in this report, it would be timely to harmonise this legislation through revisions to the GDPO and the future Heritage Bill.

⁵⁹ Department for Communities and Local Government (2008) *Communities in Control: Real people, real power*. Cm 7427. The Stationery Office, London

In addition to these statutory requirements (which generally apply to major developments and those affecting listed buildings or a conservation area), many local authorities have a policy of also publishing applications for minor developments. This is due to the complexity of the statutory requirements, and authorities not wishing to be inadvertently liable to penalty, and to the time it would take to separate out those applications requiring advertising.

The statutory requirements date back to 1972, when local and weekly newspapers and radio were popular sources of local information. The last 36 years have seen vast changes in technology and shifts in consumer preferences. Even a 2003 amendment to the legislation, allowing, in addition, for publication on websites, has probably been overtaken by further growth in the availability and use of e-technology.

A number of previous reviews (for example a study commissioned by the Office of the Deputy Prime Minister and conducted by Arup⁶⁰, the Lifting the Burdens Task Force report⁶¹, and a study for the Cabinet Office⁶²), and a survey of planning applications conducted by the District Chief Executive Network in 2007-8 have all recommended removal of the requirement for newspaper advertisements. The overwhelming majority of responses to the Call for Solutions have also called for the removal of this requirement. As an example, Richmondshire District Council's response states categorically that: *"There is no doubt that the cost of advertising various types of applications within local newspapers is entirely disproportionate to the contribution that this brings to the views expressed on applications"*. It is estimated that local planning authorities currently spend £15 million per year on newspaper advertisements.

The box below, taken from a response to our Call for Solutions, provides an example of the viewpoint of members of the public on current notification arrangements.

Mr & Mrs Barnard

We are at present involved in a planning application, which will seriously affect our personal environment, along with that of many others surrounding us. This was brought to our attention in the usual way by the local planning office but almost everyone else in the vicinity were left to their own devices to gain information on the proposal.

This would include searching local newspapers and/or perhaps reading an A5 sized information poster, which had been discreetly attached to a telephone post near to the location involved. This, we feel, is a most unsatisfactory form of communication, particularly when contentious issues are involved. It was left to the likes of ourselves to form a communications network with adjoining neighbours who had all been oblivious of the application (albeit some of whom were adjoining the proposed development site). We feel there needs to be some alternative method of making this initial communication, whereby those affected will be informed from the outset.

⁶⁰ ODPM (2004) *Review of the Publicity Requirements for Planning Applications*. Office of the Deputy Prime Minister, London.

⁶¹ Lifting the Burdens Task Force (2007) *Review of Department for Communities and Local Government : Housing and Planning*. Local Government Association, London.

⁶² Cabinet Office (2007) *Informing the Public in a Multi Media Age*. Cabinet Office, London.

Removing the requirement to advertise in local newspapers would provide local planning authorities with the scope to use a wider range and more diverse mix of publicity avenues, including newspaper publication, web publication, site notices, neighbour letters, public meetings, public notice boards or employing community liaison staff. It would also give local authorities greater autonomy in the use of their budget and resources.

In a pilot study, the London Borough of Camden was given the flexibility not to publish press notices for certain types of application, in return for implementing a stretch target to increase the volume and mix of citizens commenting on planning and associated applications. Local research had shown that residents did not generally find out about planning applications through newspapers, and Camden proposed to divert the financial resources it would have spent on newspaper advertisements to part-fund improved site notices and a community engagement post.

Prior to the pilot study, Camden spent an average of £30,000 pa on newspaper advertisements. Since introducing new arrangements for publicising applications in 2005, publishing costs have reduced to £5,700 in 2005 and £5,400 in 2006-7. This saving has enabled the council to divert resources to community education on planning, and engaging with a wider range of community groups, including socially excluded groups. Camden met its public service agreement target of improving engagement with ethnic minority communities, with responses from this community rising from 28% to 34%.

The review received a presentation and submission from the Newspaper Society, including the results of their recent research. We accept that local newspapers can be a valuable source of information to local communities, and that many of them now also offer searchable websites. However the shift in media consumption is such that the public now seeks information from a much wider range of media – the internet, newspapers, television, radio – than when 1972 Act was implemented. It seems to us to be relevant and timely that local planning authorities be allowed greater freedom to advertise in a diversity of media. This can, of course, include local newspapers and their associated local websites.

The democratic right to information and transparency must be preserved in any changes. If publicity were by e-technology alone, people in some groups and regions may be further marginalised. Local authorities must exercise care in selecting the mix of methods chosen to publicise planning applications, alongside e-publishing, to ensure the effectiveness of this mix in reaching the communities within their areas.

It would therefore be appropriate, in assisting local planning authorities in moving to new arrangements for advertising planning applications, to provide guidance or a Code on advertising, based on the experience of the Camden pilot and other good practice.

For the avoidance of doubt, we are not advocating changes in relation to neighbour notification or site notices in relation to planning applications.

We want to allow LPAs greater flexibility to choose the most effective means of publicising applications, given their communities, regions, application type(s) and resources.

Recommendation 11 – That to help improve the effectiveness of community engagement:

- applicants for major developments should discuss with the council at an early point in pre-application discussions how best to engage with the local community;
- applicants should report the outcomes from the engagement, so that the community and the authority can easily understand what has been undertaken and how it has influenced the scheme;
- Government should ensure that the additional resources for community engagement in planning identified in the recent Empowerment White Paper are used, in part, to help improve community engagement in the planning application process; and
- local authorities should be given greater autonomy and flexibility to determine the best approaches to use in order to notify the public about planning applications, thus allowing them to decide whether to use local newspapers.

4.3.3 An alternative way to solve disputes

Even with the use of better approaches to community engagement, disputes will continue to arise. Current arrangements within the planning application process for dealing with disputes tend to be adversarial, and there have long been calls to incorporate alternatives, such as formal and informal mediation.

Following the reforms advocated by Lord Woolf⁶³, active case management and mediation have been integrated into civil litigation for more than ten years, with substantial cost savings and decreasing administrative burdens on the court. As Lord Phillips of Worth Maltravers commented in his recent speech⁶⁴, as a result of these reforms, “over 90% of actions that are commenced in England end in a negotiated settlement before trial”. Why then have such innovations not been applied to planning law?

Possible difficulties in applying alternative dispute resolution and mediation to planning have been overcome in other public sector services and organisations, including:

- The Housing Ombudsman;
- The Healthcare Commission;
- Pensions Mediation Service;
- Jobcentre Plus Mediation Service;

⁶³ Rt Hon. the Lord Woolf (1996) *Access to Justice: Final report to the Lord Chancellor on the civil justice system in England and Wales*. Available at Department for Constitutional Affairs - Reports On Civil Justice Reform.

⁶⁴ Lord Phillips of Worth Maltravers (2008) *Alternative Dispute Resolution: An English Viewpoint*. A Speech by the Lord Chief Justice in India on 29 March 2008.

- Family Housing Group scheme;
- Clinical Negligence Mediation scheme; and
- Privy Council scheme;

Few, if any, of the questions that could be encountered by applying mediation more widely in planning are likely to be so novel that study of comparative mediation schemes could not provide a solution. We therefore think it is pertinent to consider what role mediation could play in streamlining the planning application process, by providing better resolution of disputes. There is certainly potential for mediation to support the change in culture, which seeks to move the planning system from its former adversarial and confrontational approach, to a more consensual and co-operative approach.

In his May 2008 speech⁶⁵, Sir Henry Brooke, former Chair of the Law Commission and current Chair of the Civil Mediation Council, identified areas of planning disputes which are amenable to mediation such as:

- disputes on technical matters, such as noise and traffic;
- design issues;
- addressing third party concerns;
- conditions; and
- section 106 agreements.

Sir Henry identified that planning cases less likely to be able to be dealt with by mediation are those concerning policy. However, complex cases may involve a number of areas of dispute. If mediation were incorporated into the planning system, it may still be possible to allocate, to mediation, certain aspects of those disputes, for example on conditions or terms of the section 106 agreement. This would help to narrow the outstanding issues, and contribute to quicker, more cost-effective, and less adversarial dispute resolution.

In seeking to address the outstanding questions of integrating mediation into planning, we have investigated applying mediation at the following stages of the planning process:

- the pre-application stage;
- during consideration of the application; and
- the appeal stage.

⁶⁵ Brooke, Sir Henry (2008) *The role of mediation in Planning and Environment Disputes*. The First Peter Boydell Memorial Lecture, Inner Temple Hall, 13 May 2008.

Pre-application

Studies, including that by Michael Welbank in 2000⁶⁶, have suggested there may be scope for aspects of proposed developments to be addressed by alternative dispute resolution, including mediation, prior to submission. As we have highlighted elsewhere, there are clear benefits, for larger developments, in identifying and addressing, in pre-application discussions, aspects of applications which are likely to be disputed.

However, half of applications and a quarter of planning appeals relate to householder developments, where informal discussion and negotiation may be more appropriate. In the majority of householder applications, the issues are design or layout related, and concern the impact of extensions. Although these issues are readily amenable to mediation, they may also be addressed through other methods, such as constructive discussion, negotiation and facilitation.

The householder application process is currently unnecessarily adversarial, and could usefully be made less so. Potential objections may be more constructively addressed early in the process, by encouraging applicants to informally advise their neighbours, before submission, that they intend to make a planning application. In addition, it may be more helpful if notification letters invited neighbours to “submit comments” on an application, rather than to make “objections”.

Some, though far from all, local authorities already offer mediation across a range of their services. But, suggesting local authorities offer planning mediation more widely would have resource implications, and it could not be offered routinely for minor or householder developments. Also, it is one of the key characteristics of mediation that it is conducted by a neutral third party, and so, ideally, should not be conducted by the planning authority. Local planning authorities do, however, have a role in raising community awareness about the potential benefits of alternative dispute resolution and mediation, and about providers of this support, including community mediation providers, the National Mediation Helpline, and the Civil Mediation Service.

Consideration of the Application

It has been suggested that there may be scope for mediation during the consideration stage, after an application has been submitted. In this case, its envisaged use would be when a planning officer was ‘minded to refuse’ an application on certain grounds. The applicant could be provided with the opportunity for negotiation on the application, or for it to be referred to mediation. If the issues were successfully addressed through negotiation or mediation, processing of the application would re-start. If the issues were not successfully resolved, the application would be refused.

This process could be expected to reduce the number of refusals and the number of appeals, and speed up approval for some developments.

⁶⁶ Wellbank, Michael (2000) *Mediation in the Planning System*. Department for Environment, Transport and the Regions, London.

However, using mediation in this way would be different from its use in other contexts, in that the resolution of the grounds for possible refusal cannot always guarantee that the application will be granted. In particular, depending whether or not the case has been delegated, the application may require councillor decision. For this reason, it has been suggested that a more optimal point for parties to pursue formal mediation is when an application has been refused, as it is at this point that grounds for refusal will be clear and therefore may be addressed by parties with greater certainty.

While it may be possible for specialist mediation bodies to provide formal mediation at this stage in the process, the application would still need to be dealt with within existing organisational arrangements following mediation. If mediation is successful, some means would need to be found to grant the application, subject to appropriate conditions. If the mediation is unsuccessful or only partially successful, parties would still be able to go to appeal. This is analogous to the way in which, in civil law, parties are encouraged to pursue mediation, prior to attending court. We therefore consider that the Planning Inspectorate (PINS) is the most appropriate body within which to establish formal mediation at this stage.

Appeal

The demands on the PINS have grown in recent years, reflecting the increasing number of planning applications. Nearly 23,000 planning appeals were received by PINS in 2007/8, and this was expected to increase to 25,000 a year by 2010, although the impact of the current economic crisis has led to a recent downturn in the number of applications and appeals. The pressure on the Inspectorate's resources was one of the reasons for CLG's May 2007 consultation, "Improving the Appeals Process in the Planning System". As a result, reforms which are in the process of being introduced include:

- a Fast Track householder appeals service, currently being piloted;
- fees for appeals;
- criteria to assist the determination of the most appropriate appeal method; and
- more specific guidance on appeal methods.

There are currently three appeal methods: written representations, hearings and inquiry. One of the reform measures to be introduced following the 2007 consultation is that the Inspectorate will determine which method will be used for an appeal, on the basis of Ministerially approved and published criteria. We consider that these criteria could be developed further, to identify cases where mediation might lead to the resolution of the issues to allow permission to be granted by an Inspector, or to the reduction in the issues to be considered at the appeal. Mediation is particularly suitable where there are inter-personal disputes, and where parties have an interest in forging a constructive future relationship, rather than where there are policy issues which are not susceptible to a mediated solution. These elements may form the basis of some of the criteria for mediation. Parties could then be advised to use mediation to seek to resolve or reduce the issues between them.

In 2007/08, about 20,000 cases were decided by PINS, of which nearly 17,000 cases were dealt with by written representations. Matters dealt with by written representations are of type suitable for written submissions. Written representation provides a relatively swift and simple method of deciding cases. Whilst mediation might reduce the number of written representation appeals, it is unlikely that there would be much value added, as the need to get the parties together with a mediator would make it a more costly alternative to deciding an appeal by written representations.

There is potentially more scope for mediation to provide an alternative avenue for some cases which are dealt with by hearing or inquiry, as these are the cases which tend to be more complex. In 2007/08, about 2,250 cases were dealt with by hearing, and nearly 900 cases were dealt with by inquiry. Use of mediation to deal with some of these cases could speed up the process for these cases, by either overcoming or reducing the issues between the parties, and thus reduce demands on the Planning Inspectorate's resources.

The Inspectorate has the established infrastructure and experience in assessing the nature and complexity of cases, and has gained some practical experience of mediation in the planning system, as a result of its involvement in previous studies on the use of mediation in the planning system in 1998 and 2001/2. We recognise that the Planning Inspectorate currently has no skills in mediation, but these could be acquired. Mediation has been integrated into the dispute resolution processes of the Housing Ombudsman and the National Health Service, among a growing number of organisations, by recruiting a panel of mediators or tendering for specialist mediation.

One of the distinguishing characteristics of mediation is, however, that it is a consensual process - one undertaken with parties' agreement - and it is important that it remain so. In civil litigation, the court 'encourages' parties to consider mediation prior to pursuing litigation, and, if parties do not pursue mediation, the court will take into account, in the award of costs, whether there were good grounds for not pursuing mediation. We therefore propose that, if a case satisfies certain criteria, the Planning Inspectorate will encourage parties to consider mediation, and, if the parties choose not to pursue this course, that the reasonableness of this decision will be taken into account in the award of costs by the Inspector. This could be achieved by making the failure to agree to mediation an example of unreasonable behaviour in the revised Costs Circular.

If mediation is incorporated into the appeal system, it would be possible to mediate cases in their entirety, as an alternative to appeal, leaving an Inspector to grant planning permission for the agreed scheme, or, alternatively, for certain aspects of a case to be mediated, to reduce the areas which the Inspector needs to consider under the appeal, thereby reducing the time required for a hearing or inquiry. The mediation process is flexible and able to cater for a number of parties' interests. Schemes exist for multi-party mediation, and the number of parties who wish to be involved need not be a bar to the process or a successful outcome.

Mediation can add value throughout the plan making and decision stages, and mediation by the Inspectorate should not be a substitute for good advice and communication by local planning authorities. Local planning authorities and planning community stakeholders should be aware of the benefits of alternative dispute resolution, including mediation, and recognise that these benefits justify the resource commitment of integrating mediation into their pre-application and consideration stages, for use as may be appropriate to individual cases.

We therefore propose that further consideration be given to incorporating mediation into the Planning Inspectorate's operations, as an alternative or precursor to appeal. We believe that this has the potential to deliver savings that could outweigh the costs involved, by removing a proportion of the appeals presently dealt with by hearing or inquiry. Mediation could also lessen the burden on local authorities of the detailed preparations required for hearings and inquiries, providing officers more time to deal with applications. However, more work is needed to substantiate this. We therefore propose that CLG and PINS should carry out a more detailed investigation into the potential costs and savings of the approach we have outlined. If, as we expect, this use of formal mediation is shown to be cost-effective, then we recommend that implementation of this approach should follow the reforms currently underway.

We want to achieve cost and resource efficiencies for the planning application process through the integration of alternative dispute resolution measures, including mediation, into the planning process.

Recommendation 12 – That greater use of alternative dispute resolution approaches should be encouraged at all stages of the planning application process where this can deliver the right decisions in a less adversarial and more cost efficient way.

To achieve this:

- local authorities and applicants should explore opportunities for applying alternative dispute resolution approaches throughout the process; and
- CLG and PINS should carry out a more detailed investigation into the use of formal mediation as a less adversarial and speedy alternative to appeal, to establish whether the potential time and cost savings would justify the costs of introducing such a scheme.

5. Achieving changes in culture

5.1 Improving the quality of applications

A common complaint from many local planning authorities is about the quality of applications made by some applicants and agents, particularly for householder and minor developments. Applications can sometimes lack even the most basic information, and there can then also be a reluctance, on the part of the applicant or agent, to provide further information when asked to do so. Many local planning authorities have to declare invalid a very high proportion of applications submitted to them, even after the investment of considerable resources in the provision of training for agents. On major applications, which tend to be submitted by professional consultants and/or architects, the quality tends to be better and, in some cases, of a very high standard. But even here, as our case study research suggests, problems can be caused when applicants refuse the offer of pre-application discussions, or choose to ignore the advice they have been given.

Elsewhere in this report, we outline a range of other measures that will help improve the quality of applications through: making more and better advice available to applicants; improved pre-application arrangements, including early discussions about design; and avoiding unnecessary information requirements. But part of the solution lies in seeking to encourage and identify those agents who offer a high quality service to applicants. In this regard, it is worth recording that there are no restrictions on who can submit applications, and many (more minor) applications are often submitted by unqualified agents or other individuals.

One initiative that could help improve the quality of submissions and overall efficiency is the Fast Track – Planning Agent Accreditation Scheme, that has been introduced through the National Planning and Regulatory Services On-Line Project (PARSOL). This is currently being piloted by St Helens Council on Merseyside, but has also been used by Waverley Borough Council in Surrey.

Accredited planning agents, who have agreed to abide by a locally adopted Code of Practice when submitting applications for householder or other minor forms of development, have their applications dealt with more quickly, in exchange for guaranteeing that their applications are submitted electronically, and meet a certain standard that removes the need for formal validation by the local planning authority. This reduces the workload for the local planning authority, and helps deliver more efficient and faster decisions, without undermining all the other key parts of the full planning application process.

Before accreditation is given, agents need to demonstrate competence, by submitting three or more compliant applications, using a checklist developed and adopted by the local planning authority. In return, the agents can expect:

- validation within one working day, including confirmation of the application number and case officer contact details;
- certainty that the application reaches the case officer within 24 hours; and
- best endeavours to reach a faster decision, within 6 or 7 weeks, if dealt with under delegated powers.

There may be additional potential benefits, but the key objective is to improve the quality of applications, and to reward this with more efficient processing. There need to be safeguards, and current practice is to remove accreditation, if two separate applications submitted under the scheme have significant errors in them, if appeals are not submitted online, or if the agent is deemed to have brought the scheme into disrepute in any way.

The experience of St Helens Council in piloting this proposal has been positive. It has resulted in an increase in applications made online, and an improved quality of applications, leading to faster decisions times, averaging five weeks and one day for schemes submitted by accredited agents. Accredited agents have also benefited from an increased volume of work. We understand that a number of Councils have contacted St Helens with a view to developing their own schemes.

Clearly it is early days for the St Helens' scheme. In addition, from our discussions with stakeholders and the officers of St Helens Council, there is a clear view that this approach is best suited to small scale applications – particularly householder applications – where agents tend to be based locally, and are very familiar with the precise requirements and policies of the council for the forms of development being proposed.

For larger schemes, where pre-application discussions are necessary, there may be other ways to identify who the competent agents are. One authority suggested keeping a publicly available record of the performance of agents in preparing applications that are valid when first submitted, although the authority does not appear to have taken such a step thus far, and clearly it would have resource implications for the local planning authority concerned.

The Royal Town Planning Institute (RTPI), in its submission, noted the importance of identifying who competent agents are. It already maintains a web listing of RTPI accredited consultants, where members of the public can obtain paid-for planning advice from qualified (as opposed to not necessarily qualified) agents. But we wonder whether it and the other professional bodies, such as the Royal Institute of Chartered Surveyors (RICS) and Royal Institute of British Architects (RIBA), could not do more to encourage high standards of competence in agents by developing a “quality assurance” scheme.

Recommendation 13 – Local planning authorities and other bodies should provide greater encouragement and recognition to those agents who prepare good quality applications on behalf of their clients, in order to drive up the standard of applications submitted.

This could encouraged by:

- RTPI, RICS and RIBA identifying opportunities to encourage good practice for large scale applications;
- the introduction of an “accredited agents” scheme by local planning authorities for householder and other minor development schemes. Early indications from a pilot study suggest such schemes can encourage higher quality applications, which in turn lead to faster decision times and more efficient use of local authority resources.

5.2 Resources and skills

In the Call for Solutions, we highlighted the fact that a shortage of resources and skills in local planning authorities was frequently raised as an important issue by stakeholders from across the board. The problems included a reported shortfall in planners, leading to recruitment and retention issues for many councils, as well as concern about a shortfall in the wider skills necessary to provide a good planning service, in the context of the delivery of sustainable development. We also raised the issue of whether the resources available were being appropriately utilised.

We focus on human resources and skills in this section. We deal with the issue of financial resources, including planning fees and Housing and Planning Delivery Grant, linked to improved performance, in Chapter 6.

A number of good ideas were raised in response to our Call for Solutions...

The points most commonly raised on this issue in responses to our Call for Solutions were:

On greater sharing of resources:

- the necessity of commending / promoting the sharing of specialist staff, particularly urban design specialists, but also enforcement officers, conservation specialists, archaeologists, tree specialists etc;
- that sharing of resources between local planning authorities could be problematic politically and financially, but at the least sharing of ideas was valuable;
- that the work of ATLAS should be further developed, possibly through regional 'flying squads' with specialist planning expertise.

On making better use of resources available:

- that planning technicians could be used even more than at present with respect to householder applications;
- that a 'triage' system was to be commended;
- that many authorities were pursuing a 'grow our own' policy, which helped with junior staff, but left difficulties retaining more experienced staff.

On funding:

- that pay was a key issue for retention, particularly as a result of recent 'single status' regradings;
- that planning fees should be reviewed to ensure local authorities were sufficiently resourced;
- that Planning Delivery Grant (PDG) had made a large impact, but that recruiting permanent staff was difficult, due to uncertainty over the future of the grants.

A few respondents recommended further outsourcing to the private sector, but most did not, and some gave examples of difficulties that had surrounded this when they had tried it. Much more common was simply recommending steps are taken to promote the image and status of planning, both within local authorities, and in the wider world.

Tendring District Council provided some examples of good practice in their response:

- *“We are currently at an early stage of looking to pooling resources on the LDF in conjunction with Ipswich and Colchester, with respect to the Haven Gateway.*
- *We invite other authorities to our CPD sessions.*
- *Our Policy Team share a Sustainability Officer with Colchester.*
- *Development Control have the use of an Urban Design Officer one day a week from Essex County Council.*
- *We took up a system already designed and working from our neighbour Colchester in conjunction with the creation of a new Section 106 Monitoring Officer role.”*

As another example, Merseyside local authorities jointly fund an Environmental Advisory Service to provide advice on a range of specialist environmental issues.

We support the recent Select Committee report

Since the publication of our Call for Solutions, the House of Commons Select Committee on Communities and Local Government has published⁶⁷ the results of its own detailed consideration of this issue.

We agree with and support the Select Committee recommendations on:

- raising the general image and status of planning by co-ordinated promotion in schools as a career;
- encouraging joint working and pooling of resources between authorities;
- providing clear job roles within the profession;
- continuing the planning bursary scheme, but with safeguards to ensure the graduates enter the public sector;
- supporting a conversion course for mid-life professionals, to try and address the issue of a lack of more experienced staff (as opposed to just new graduates);
- ensuring there are sufficient continuing professional development (CPD) opportunities for staff; and

⁶⁷ House of Commons Select Committee on Communities and Local Government (2008) *Eleventh Report: Planning matters – labour shortages and skills gaps*. The Stationery Office, London.

- ensuring adequate resourcing for the production of local development framework documents.

We would strongly urge the Government, to take forward the programmes and actions set out in its response to the Select Committee as a matter of priority, working closely with other key stakeholders in local government, the profession, academia and the private sector.

The Select Committee also urged the Government to raise the status of planning within local government by making the Chief Planning Officer a statutorily protected senior government official. Similar points were put to us by a number of those responding to the Call for Solutions. On this matter we agree with the Government's view that planning in local government needs effective leadership and that a council's senior management team needs to understand the importance of planning in delivery of the council's long term vision, but that it would be wrong to require a particular model, given the variety of structures within local government.

Our other recommendations will free up some resources

As the Committee's report notes, the shortage of planners is a long-standing problem, and one for which there is no quick solution. In these circumstances, it is worth looking at the scope for making better use of the resources currently available. We believe that several of our earlier recommendations will free-up some resources and skills. For example, through our recommendations for extending permitted development, and for a revamped intermediate consent regime, we would hope to free-up resources and skilled planners from dealing with very minor development issues, so that these skills and resources can be better applied where they will be most effective. Similarly, by removing the need for newspaper advertisements, and allowing local authorities flexibility over how best to engage their communities, we are giving them the option of using the extra resource (through not paying for newspaper advertisements) to pay, for example, for a new community planner.

Beyond these resource savings, what further steps can be taken by councils, central Government and professional bodies?

Pooling of resources and joint working is one common theme...

The House of Commons Select Committee recommended encouraging further joint working and pooling of skills and resources between local planning authorities. We appreciate the challenges that can be associated with joint working and pooling of resources, but believe the opportunities far outweigh these challenges. In particular, smaller district councils would hugely benefit from access to shared skilled staff around areas such as design, conservation and ecology. Similarly, there are certain types of application (for example, for minerals or energy developments) which require specialist skills, increasingly in short supply.

As the Call for Solutions pointed out, there is a wide variation in the numbers of applications handled by different local planning authorities. Some may deal with a very small number of major applications in a year. These local planning authorities will have greater difficulty making available the resources to deal with an application for a large major development than local planning authorities which handle hundreds of major applications a year. In this context, sharing or pooling of resources between local planning authorities could play a greater role, whilst still ensuring robust local accountability for the overall decision.

We encourage local authorities to explore the opportunities for making best use of skills and resources through joint working.

Making better use of existing staff is important

In addition to this, as previous reports^{68,69} have highlighted, there is scope for planning technicians and planning support staff to play a greater role. The 2004 ODPM study, in particular, found that training support staff to become qualified planners, together with (re-) organising the work of planning departments to free up planning officers, and increased use of IT were amongst the main methods used to tackle recruitment problems.

As the planning system has become increasingly complex, there is an increasing need for skills beyond those typically provided by planning professionals. For example, we have already highlighted some of the potential benefits from a greater use of alternative dispute resolution approaches within the planning process (see Chapter 4), but use of these approaches requires different skills. More generally, the distinction that is made between professional and technical staff is based more upon the tasks they carry out than on the skills they offer. This does not always ensure the most efficient use of resources.

It is also of the utmost importance that authorities ensure planning is a well-led, well-managed service, in accordance with all other council services. Planning should be seen as central to delivering the vision of the council and the community, for how the area will develop in the future, and full advantage needs to be taken of the opportunity this provides for place-shaping. Equally, applicants are paying for a service, and quite rightly expect a good service in exchange. Good management and, above all, leadership are essential if planning is to fulfil these objectives.

Ensuring the continuation of Government support on this issue is vital...

Alongside this, we endorse the current planning bursary scheme run by CLG, whereby support is provided for students on approved masters' courses. This is clearly helping to increase the supply of suitably qualified graduates into planning. We would strongly encourage CLG to continue its support for this bursary scheme. Even if demand for planners slackens in response to changing economic conditions in the short-term, this is a strategic investment in a pool of qualified staff for the long-term.

⁶⁸ Arup Economics & Planning with the Bailey Consultancy (2002) *Resourcing Local Planning Authorities*. Department for Transport Local Government and the Regions, London.

⁶⁹ Edmundson, Tim (2004) *The Potential Role of Planning Technicians and Planning Support Staff in Enhancing Service Delivery in a Reformed Statutory Planning System*. Office of the Deputy Prime Minister, London.

We would also encourage CLG to consider the future of the Housing and Planning Delivery Grant. As Planning Delivery Grant, this grant provided a crucial incentive, which improved the performance of many local planning authorities. Yet there is difficulty using funding such as this to employ additional staff, when its future is so uncertain. If the grant can be continued beyond its current period, it is likely to be hugely important in helping ensure local planning authorities are able to provide a good quality service to all users of planning.

Action needed on skills base

A number of recent reports, such as the Egan Review⁷⁰ and the recent House of Commons Select Committee report make worthy recommendations for Government with regard to skills.

But we believe some further action is required. It will be vitally important that planners are sufficiently equipped with the right skills to implement the recommendations of this review, and we encourage CLG to work with the Planning Advisory Service, the Royal Town Planning Institute (RTPI) and the Planning Officers Society to help consider the best methods for rolling out the new skills to put the review recommendations in place.

We also strongly encourage the RTPI to make best use of its Continuing Professional Development (CPD) requirements, to help ensure all planners remain up-to-date with the necessary skills to plan in a rapidly changing world.

Ensuring a robust planning resource in changing economic circumstances...

Finally, we note that current economic conditions are, in the short term at least, likely to lead to a marked downturn in the number of planning applications being received by local planning authorities. We would strongly encourage local authorities to think carefully before making any dramatic reduction in the number of planning staff in reaction to this. The results of drastic contractions in local authority planning departments during past economic downturns are still having an impact upon the staffing and skills base of the planning system many years later.

Many authorities have made considerable progress in improving the quality of their planning service in recent years. There is still, however, evidence of room for improvement in a number of areas, as highlighted in this report. Alongside this is the ongoing need for culture change, so that all applications are handled in a proportionate, customer-focused manner, in line with the broad principles of development management. We recognise that implementing change and altering practices can be difficult when there is a need for planning departments to continue to process applications in a timely and efficient manner. A reduction in the number of applications being processed may thus provide some 'breathing space' for local planning authorities to take time to make improvements to the way they work.

It is also essential that authorities work to get their Local Development Frameworks in place, in

⁷⁰ Egan, Sir John (2004) *The Egan Review: Skills for Sustainable Communities*. Office of the Deputy Prime Minister, London

particular Core Strategies. While authorities are experiencing a reduction in the planning application workload, skilled staff could be temporarily moved to assisting colleagues with the production of Local Development Framework documents. This would help with progress toward the adoption of these essential documents, as well as encouraging a welcome cross-fertilisation of skills between the different planning functions.

We would urge CLG to work with the Local Government Association and the RTPI to adequately support local authorities to respond to changing economic conditions, by refocusing resources on reorganisation and core strategy production, as necessary, rather than simply reducing staff numbers.

Recommendation 14 – Government should continue to seek ways, alongside and working with local planning authorities and the professional bodies, to address the shortage of resources and skills in council planning departments.

In particular we would strongly:

- urge the Government, to take forward the programmes and actions set out in its response to the Select Committee on labour shortages and skills in planning, working closely with other key stakeholders in local government, the profession, academia and the private sector;
- commend our other recommendations which will, overall, free-up resource within local authorities that can then be applied to providing the better quality service all users of the planning system require;
- encourage local authorities to make better use of existing resource through ensuring the best possible use of support staff, including technicians, and through fully exploiting opportunities for joint working with other councils and the private sector; and
- urge professional bodies to ensure they provide strong support to help ensure up-to-date and appropriate skills bases across planning.

5.3 Incentivising an improved approach to applications

The current time-based processing targets are a source of widespread concern...

There has been strong concern from a wide range of stakeholders that the current Best Value target regime, with the focus mainly on the 8/13 week timescale targets, and with links to Planning Delivery Grant and to the Comprehensive Performance Assessment score, has produced perverse consequences and worse customer service.

These perverse consequences include:

- pressure from local planning authorities on applicants to withdraw applications or face refusal if they go over the target deadline;
- a lack of flexibility for negotiation to improve schemes because of time constraints;
- a focus of energy and resources on the period between submission of application to decision – to the detriment of pre-application and post decision stages; and
- the “Bermuda Triangle” syndrome, where applications which are out of target are given very low priority and are lost in the system.

These and other concerns about the current time target regime were raised in many submissions to the Call for Solutions. Housebuilders, commercial developers, the CBI, the Town and Country Planning Association, the Royal Institute of British Architects, planning authorities, planners, planning agents and local community groups all raise the target issue as a problem, and seek changes to be made. In their response, the Major Developers Group commented *“We have direct experience of applications being refused simply so that time targets can be met, even where both sides recognise that a change to the application would result in approval”*. There is also evidence from people, like planning agent Roger Hutton, that the targets can have these effects on minor developments, such as schemes as small as five houses.

A strong overall message from our response evidence is that these processing performance targets are not now having the desired effect, or producing the right outcomes, and there is little scope for producing faster overall decisions from keeping the existing regime. The current 8 and 13 week targets are in need of revision or ending.

Other concerns include that Government targets only account for the part of the overall planning journey occupied by processing the applications. Also, there is little incentive to continue processing an application expeditiously if it has missed the target, a tendency to use conditions for unresolved issues (within the deadline, instead of negotiating further and missing the deadline), and a lack of monitoring or discharging of conditions, since authorities are focused solely on processing applications.

The current targets also provide no measure of outcomes, for example, in terms of the number of new housing units approved.

The development and use of time targets linked to financial incentives

Time based performance targets for planning go back to 1979.

In the late 1990's, 8 and 13 week processing targets became part of the Best Value Performance Indicator set, as BVPI 109, and also counted towards an authority's Comprehensive Performance Assessment (CPA) score.

In 2003, the Government set targets for the percentage of each type of application (major, minor, other) that should be processed within the 8 or 13 week target, linked to strong financial incentives - Planning Delivery Grant (PDG).

In 2008/09, the Best Value Performance Indicators will be replaced with a new National Indicator (NI) set which provides a basket of 198 targets.

Local Strategic Partnerships will pick 35 of these as major priorities for their area as part of the LAA process, but the Audit Commission will report performance on all 198 for each authority as part of the new (from 2009) Comprehensive Area Assessment (CAA) process.

The only real 'planning' target in the new indicator set is NI 157, which replaces the old BVPI 109, and becomes the main target for development management: performance against the 8 and 13 week time-based processing targets.

The link between development control performance and PDG has also recently been altered; the new Housing and Planning Delivery Grant focuses on Local Development Frameworks and housing delivery, albeit there is an abatement for poor development control performance (as measured by NI 157) of between 10 and 20%, but this is only an abatement on the planning element of the grant.

... there is clear support for change, although differing views about the best way forward

There is almost universal support amongst our stakeholders for a change to the current target regime. We see two key purposes for National Indicators: firstly to promote desired behaviours by authorities, for example dealing with matters in a certain way or concentrating on achieving certain desired outcomes; and, secondly, there should be an element of targets being used by authorities for self-learning and development.

The current concentration on processing time as the key target is problematic on both counts. There is strong evidence, and a wide feeling amongst almost all stakeholders, that they do not incentivise good "customer service". Instead, they incentivise meeting the processing targets at all costs, be this by focusing less resource on pre- and post application issues, or by putting pressure on applicants to withdraw applications or face refusals within the target timeframe. In terms of learning and self-improvement, we believe that the time-based processing targets have had as much impact as they are likely to have. Performance against the time targets has improved over recent years, but we now believe there is little further scope for most authorities to improve this performance, unless it is by gaming the targets.

Some respondents (but by no means the majority) to our Call for Solutions suggested scrapping targets altogether. We do not, however, believe this to be the best way forward. Planning is an important local government function and service, with impacts on the economy, environment and society, and the presence of a National Indicator for planning serves to demonstrate the importance of planning.

Equally, we recognise the National Indicator set was only recently agreed (April 2008), after lengthy negotiation, so the scope for significant change is limited, and any change must be consistent with the thrust of the new indicator set to reduce the number of indicators to a minimum.

In this context, we would propose that NI 157 should be amended or replaced with a new indicator for planning. Respondents to our Call for Solutions made a number of suggestions of what such changes might involve.

One fairly common suggestion was for the ability to have a ‘Stop the Clock’ clause. Under this proposal, if the authority and applicant both agreed, the processing clock (against the target) could be stopped to allow for extra information or negotiation. We fully understand the reasoning behind this proposal, but there are a number of concerns. For example, we believe there could be pressure from authorities on applicants to agree to stop the clock or face refusal of an application – just as there is evidence of pressure for withdrawal or refusal at present. We also believe there could be extra bureaucracy created by the need to record the agreement to stop the clock and the reasons for this. Our most significant concern, however, is that this change would only address some of the concerns about the current regime, and would leave the focus purely on the time taken to process applications.

A second proposal is that the authority and the applicant could negotiate the timeframe for processing the application at the start of the process. This might provide greater certainty for all involved (our evidence suggests applicants tend to be more concerned about certainty than just speed), and encourage pre-application discussions (at the least, to map out the process and how long it will take). We believe there is considerable merit in such proposals for major applications. Indeed this a key element of the process of agreeing Planning Performance Agreements, which we endorse. But, we do not believe that such an approach is appropriate for minor applications, since the authority cannot be expected to undertake negotiations about timeframes with all applicants. More generally, however, this approach focuses still on time as the sole measure.

Finally, some respondents have suggested abandoning time-based targets in favour of some sort of outcome based target. This would be more in accordance with the other National Indicators, but it is notoriously difficult to define good, measurable outcomes for planning, with many suggestions being too subjective to form a rigorous measure. We note academic research from Matthew Carmona⁷¹ and the RTPI’s document⁷². Both of these documents suggest an interesting range of outcome based measures for planning, yet, in both cases, the measures are not appropriate for a National Indicator,

⁷¹ Carmona, Matthew and Sieh, L (2008) *Performance measurement in planning – towards a holistic view*. Environment and Planning C: Government and Policy 26(2) 428-454.

⁷² Royal Town Planning Institute (2008) *Measuring the Outcomes of Spatial Planning in England*. RTPI, London.

since they are too complex and involve too many factors (20 in the RTPI case), dampening down the impact of any one factor for any overall rating. Most crucially, in terms of this review, it is difficult to see how these could be used to measure outcomes in relation to individual applications.

... targets should incentivise a good quality service from start to finish

In recommending a revision, our objective must be to try and incentivise a good quality service to be provided by planning authorities in their handling of applications. A new target regime should continue to measure timeliness, but alongside other measures that applicants care about, such as certainty, ease of communication, and the ability to negotiate about a scheme.

Of course, planning acts in the public interest, not merely for applicants. ‘Customer-focused behaviour’ means that local planning authorities must provide a good service to all users of their planning services.

However, the needs of the wider community are already well safeguarded. In the National Indicator set, there are already a number of National Indicators which help to incentivise local authorities to ensure community engagement more generally, for example, NIs 3 and 4 on civic participation. There is also NI 14 on the number of times customers need to contact councils to obtain the information they are after (this could include objectors to applications).

Furthermore, we are recommending that authorities consider investing the money saved by no longer having to advertise applications in newspapers in a dedicated community engagement resource (see Chapter 4). And, a greater emphasis on improved pre-application discussions, and greater clarity in the discharge of conditions will also be of benefit to third party involvement in the application process.

However, in the event that the Government disagrees with this view, the customer satisfaction indicator we propose could be adapted to include a measure of satisfaction of other users of the system, for example, those who have made comments on applications.

... developing a “Satisfaction with planning services” national indicator

We would propose that the current time target based NI 157 is replaced with a new “Satisfaction with planning services” national indicator, somewhat akin to – but much improved on – the old BVPI 111. This indicator would measure customer satisfaction against all types of application.

MORI have conducted some research which is of relevance here⁷³. They suggest that key drivers for satisfaction with planning services include whether the applicant was treated fairly and felt listened to (most important of all), whether the application was refused, whether the council was prompt in dealing with queries, whether staff were friendly and helpful, whether the application took longer to process than they were told, and whether the system seems too bureaucratic or to involve too much paperwork.

⁷³ Mori (2005) *Householder Development Consents Review Survey of Applicants and Neighbours*. Office of the Deputy Prime Minister, London

We think the following principles are important in developing a set of customer satisfaction questions. The questions should be:

- designed to encourage desirable outcomes;
- focused on areas where the need for improvement is greatest, in particular, the pre-application stage, but without ignoring timeliness;
- tailored to different types/scale of application, namely: householder, minor and major development;
- kept to a minimum number;
- closed questions, to aid accurate and efficient analysis; and
- carefully framed, so as to avoid being influenced by whether the applicant got planning permission or not.

Having regard to these principles, we would suggest the following approach to questions for different scales of development.

For householder applications, there could simply be 2-3 questions covering:

- the quality of information available to guide the preparation of the application; and
- whether they received a decision within 8 weeks.

For minor applications, the number of questions could still be limited to say 3 or 4, covering:

- the quality of information, level of engagement possible at pre-application stage;
- the ease of contact with the authority during the application process;
- whether they received a decision within 8 weeks.

For major applications, again the number of questions should be as small as possible, but the key areas to measure could include:

- quality of pre-application engagement, for example clarity about the information required to support the application and a willingness to enter into a Planning Performance Agreement (PPA);
- timeliness against an agreed timeframe (with a default timescale of 13 weeks, in the event that a bespoke timescale/formal PPA was not agreed); and
- quality of contact with the authority during the formal consideration stage, for example, ability to comment on draft conditions.

The questions on the survey would need to be very carefully crafted; they should not be influenced by whether or not the applicant got permission (a constant concern with customer satisfaction type measures for planning).

... how the process might work

The survey could work in a number of ways. But we would suggest an approach where local planning authorities contact a defined sample of applicants, who are asked a series of questions on the quality of service they received from the planning authority, within strictly defined criteria from (and perhaps with random checking by) CLG and the Audit Commission. This is how the other National Indicators work – the authority collects the data itself and then submits it to central Government. So, the authority could contact, for example, 10% of all applicants each quarter, and send them a postal survey designed by CLG, with the results fed back to CLG.

For any satisfaction survey, it would be vital to benchmark the target by setting out what Government thinks – and evidence suggests – a good authority would achieve. There should also be a scoping exercise on what the survey should include for all scales of development; indeed the list could vary (and grow) from householder, through minor, small scale major to large scale major. Government could also provide a model agreement for negotiated timeframes for major developments.

Incentivising good performance

As we have noted, the new arrangements for Housing and Planning Delivery Grant (HPDG) mean that the link between performance in handling planning applications and financial rewards for local planning authorities is less strong than under the old Planning Delivery Grant regime.

However, when there is a review of the allocation of HPDG, we would strongly urge Government to consider the opportunities for linking at least part of the HPDG allocation to improved performance, with a particular priority being given to the quality of pre-application engagement available.

Another option would be to allow those authorities who deliver a high level of customer satisfaction to charge higher planning application fees. The ability for good authorities to charge higher fees could be a powerful incentive to drive behaviours.

Of course, such an approach could also be open to manipulation. The most obvious concern would be that applicants deliberately understate their satisfaction so they do not have to pay higher fees in future, although with careful question design it may be possible to guard against this possibility. And it must be noted that, in the consultation on changing planning fees that CLG conducted last year, there was not strong support from stakeholders for deregulating the fee structure: for example, developers were particularly concerned about inconsistencies nationally. We think this particular concern could be overcome, and the process made simpler, if the degree of flexibility on fee rates was limited to a maximum increase of say 10 or 20% above national rates.

Clearly, the main impact of this new incentive would be felt by applicants. Our discussions with applicant stakeholders, particularly of large scale developments, revealed a willingness to pay greater fees if this delivered a higher quality service, with increased certainty about timescales and outcomes. The Government has made a commitment to review the impact of the application fee increases announced in April 2008 and to take a further look at planning fees in 2009, and we would encourage the Government to consider this issue in that context.

If we assume only current 'good' authorities would perform well enough to implement this, and higher fees would only be levied in relation to large scale applications, this could increase the fees burden on developers by around £10.5 million per year⁷⁴. However, given that the customer satisfaction survey includes a sample of all types of application, fees could be increased for all types of application, which would increase the burden on applicants. This is matter that would need further consideration.

Clearly there are a number of matters that require careful consideration, but we would recommend that, alongside the introduction of a new customer satisfaction indicator, the Government explores the option to provide financial incentives to authorities that perform well and deliver high levels of satisfaction.

Recommendation 15 - Government should replace the current approach to targets, which is based simply on the time taken between the submission of, and a decision on, an application by a new, broader and more flexible approach to measuring the whole application process.

In particular, we recommend that:

- the current National Indicator 157, which is based on the 8/13 week time targets, is replaced with a new "Satisfaction with the planning application service" indicator. The indicator would be based on the results of customer satisfaction surveys of applicants for all scales of application. The surveys would consider a range of relevant factors, including the quality of service experienced by the applicant and the timescale for determining the application;
- alongside the introduction of a new indicator, the Government explores the opportunities to provide financial incentives to the authorities that perform well and deliver high levels of satisfaction (either by allowing them to charge higher planning application fees or through changes to the Housing and Planning Delivery Grant).

⁷⁴ Based on Audit Commission planning scores, about 35% of LPAs were rated as "good" or "excellent". With about 18,000 majors per year, assuming 35% of those are impacted, assuming an extra 10% fee for each and assuming an average fee of £16,565 (the cost for a 50 dwelling application under the 2008 fees), this would amount to some £10,435,950 additional burden on the development industry.

6. Tackling Complexity

Much of the complexity of the planning application process has its roots in the policy and legislative framework

The terms of reference of this review focus on process and not policy. However, it has become clear to us during the course of the review that we cannot ignore the impacts that the policy expectations for the planning system have on the planning application process. Many of the problems identified in our Call for Solutions have their origins in the complexity of the policy objectives which Government expects the planning system to be able, but which it finds it increasingly difficult, to deliver.

About half of the responses to our Call for Solutions expressed some degree of concern about national policy, even though we did not ask a specific question on this issue. The box below gives examples of the responses made on this issue.

Association of London Borough Planning Officers (ALBPO): *“The planning system has become too complex and there is a lack of clarity in the government’s documentation between policy, guidance and procedures.A fundamental review of the PPS, Circular and Statutory Instrument framework is needed to restore order and clarity.”*

Federation of Master Builders: *“the volume of policy has grown to such an extent that central government machinery can no longer exercise sufficient control over it to prevent contradictions occurring and where those seeking to implement it are increasingly unable to achieve sufficient comprehension to implement it sensibly. In short, policy has become unmanageable and must be scaled back.”*

Westminster City Council: *“It is essential that Central Government clearly identifies the role of planning and provides the necessary national policy guidance to lead the planning system. At present many of the planning policy guidance notes, planning policy statements and circulars issued by Central Government are too lengthy and imprecise.”*

Kennet District Council: *“Should the local planning authority be asked to solve all of society’s problems, from obesity, noise, crime prevention and renewable energy and climate change? Too often there is duplication in the process. Some requirements, such as those for renewable energy, should be included in Building Regulations for new houses. Noise issues could be left to Environmental Health.”*

Strutt and Parker, planning consultants: *“It is generally felt that the planning system encompasses too wide a range of issues and material considerations which properly should be determined by other agencies and other legal frameworks.”*

These responses, together with our discussions with stakeholders, echo the earlier Barker Review in revealing strong concerns with elements of the policy and legislative framework, namely that:

- the expectations about what the planning system can achieve exceed its ability to deliver, and the areas of duplication with other regimes are growing;
- for policy and legislative reasons, the process of deciding many applications has become much more complicated;

- the application process doesn't differentiate in a proportionate way between different scales of development; and
- the net result is an often unnecessarily complex and burdensome process, particularly for small scale proposals.

The current planning system is tasked with delivering a very wide range of objectives....

The national policy and legislative framework for handling applications is of critical importance in shaping how decisions are made and the factors that are taken into account. Both the national policy framework (principally set out in PPS/PPGs) and the legislation for the planning application process (principally set out in the General Development Procedure Order) have been subject to very considerable modification and expansion over the last 20 years, and the planning system has been tasked with delivering an ever widening array of policy objectives. The table below lists the planning policy statements/guidance.

Short Title	Title	Published
PPS1	Delivering Sustainable Development	2005
PPS1 supp	Climate Change	2007
PPG2	Green Belt	1995
PPS3	Housing	2006
PPG4	Industrial & Commercial Development and Small Firms	1992
PPG5	Simplified Planning Zones	1992
PPS6	Planning for Town Centres	2005
PPS7	Sustainable Development in Rural Areas	2004
PPG8	Telecommunications	2001
PPS9	Biodiversity & Geological Conservation	2005
PPS10	Planning for Sustainable Waste Management	2005
PPS11	Regional Spatial Strategies	2004
PPS12	Local Development Frameworks	2008
PPG13	Transport	2001
PPG14	Development of Unstable Land	1990
PPG15	Planning & Historic Environment	1994
PPG16	Archaeology & Planning	1990
PPG17	Planning for Open Space, Sport & Recreation	2002
PPG18	Enforcing Planning Control	1991
PPG19	Outdoor Advertisement Control	1991
PPG20	Coastal Planning	1992
PPS22	Renewable Energy	2004
PPS23	Planning and Pollution Control	2004
PPS23	Obtrusive Light Annex	New
PPG24	Planning & Noise	1994
PPS25	Flooding	2006

In addition, there is further policy set out in circulars, as well as approximately 135 guidance documents, ranging from circulars, practice guidance, manuals, advice notes, best practice guides, guides and leaflets.

There are limits to what can be achieved through planning – we must refocus on doing what planning does best

The Government's overarching statement of objectives for the planning system is set out in Planning Policy Statement 1 Planning and Sustainable Development. As the introductory paragraph makes clear:

“Planning shapes the places where people live and work and the country we live in.

Good planning ensures that we get the right development, in the right place, at the right time. It makes a positive difference to people's lives and helps to deliver homes, jobs, and better opportunities for all, whilst protecting and enhancing the natural and historic environment, and conserving the countryside and open spaces that are vital resources for everyone.”

This is an immensely challenging task which raises high expectations about what planning can achieve. In attempting to meet these expectations, and an ever growing number of additional objectives, the planning system is in danger of losing its focus and ceasing to be an effective instrument of change. We think that there needs to be a clearer recognition of the limits of the planning system, and a greater focus on what it can realistically achieve, if we are not simply to see the system collapse under the weight of complexity and excess information.

.... as a first step, duplicative objectives should be removed, and it should be made more difficult for Government departments to add new objectives into the national policy framework

Too many Whitehall departments view the planning system as a convenient mechanism to implement initiatives within their areas of responsibility. As new policy challenges arise, and solutions are sought, particularly where these involve (more intractable) changes to individual behaviour, it is tempting to use a mechanism, aimed at shaping the places we live and work, to design in, at the start, measures that encourage behaviour change. Recent examples include using planning to encourage people to use their cars less or to take more exercise. Similarly, development design will often be one factor influencing modern risks, such as from flooding or from terrorist attack, and incorporating risk reduction measures into the design via the planning system would seem to make sense. However, the cumulative effect of all these initiatives is a planning system so overburdened that its core priorities are no longer clear, and planning officers, however experienced and well-qualified, who have increasing difficulty in understanding and reconciling all of the issues sufficiently well, that they can make the balanced judgement at the heart of the planning application process.

Stakeholders have also raised concerns about the growing duplication of planning with other controls. It is a long established principle, repeated again in PPS1⁷⁵, that planning should not replicate, cut across, or detrimentally affect matters within the scope of other legislative requirements, such as those set out in Building Regulations for energy efficiency.

In its response to the Call for Solutions, Strutt and Parker note that *“a particular example is the Code for Sustainable Homes which despite being brought in through the building control route, has also found its way into planning assessments such that many authorities now seek pre-start conditions or Section 106 agreements requiring demonstration that a particular Code level will be met, without an understanding of the financial impact of such requirements”*. The Association of London Borough Planning Officers (ALBPO) makes similar points in its response and suggests that a clearer division is needed between planning and the following issues:

- *“The energy performance of new buildings – should be part of the building regulations.*
- *Pollution from emissions – should be part of pollution control legislation.*
- *Noise, vibration or smells from machinery such as air conditioning units – should be part of environmental health legislation.*
- *Why, when comprehensive licensing was introduced, was the need for planning conditions to control opening hours on licensed premises not removed?*
- *Archaeology – why does this need to be controlled through planning and not through another separate licensing regime?*
- *The construction phase – there is a lack of clarity as to whether this is a planning matter. This should be cleared up.”*

It concludes that, *“there is a lot of overlap between other consent/licensing regimes and planning that should be rationalised.”*

Several respondents to our Call for Solutions have drawn attention to duplication between planning and building control over the energy performance of buildings, duplication between planning and environmental health over noise, and duplication between planning and pollution control. There appear to be particular issues here for the mineral industry: responses to the Call for Solutions from the Quarry Products Association and Aggregate Industries highlight the high degree of overlap and duplication between the processes the minerals industry needs to negotiate to obtain planning permission and to obtain an environmental permit.

We think that enough is enough. It is time to remove duplicative objectives, and to call a halt to ad hoc additions of objectives, unless there is a very strong and compelling case for doing so.

⁷⁵ Para 30 PPS1

The Government announced a planning policy review in the Planning White Paper. In our view, the Government must use the opportunity of this policy reform initiative to remove, from the planning system, policy objectives which duplicate other controls.

In addition, as part of a more rigorous process of testing emerging proposals, we recommend that CLG publish challenging criteria against which it will assess any proposals to add further objectives to be delivered through the planning system. Substantive policy development work should not be undertaken until the Department is satisfied that all the criteria have been fully and satisfactorily addressed.

Such criteria might include that:

- there is a clear justification for introducing the new policy objective;
- the objective is genuinely related to the development and use of land;
- the planning system is the most effective delivery mechanism when tested against reasonable alternatives;
- the approach suggested is proportionate – for example, that the requirements of the policy are appropriately targeted at specific areas or types/scales of development;
- the impacts of the new policy objective have been fully appraised, and where necessary, funding provided to cover additional costs identified; and
- the costs of introducing the new policy objective are justified by the benefits that will be achieved.

A key part of the testing process is the preparation of an impact assessment, involving a demonstration that the costs of the policy or law are justified by the benefits. It is very important that a reasonably full impact assessment is undertaken at an early stage in the process and then tested in draft form through public consultation. At present, many impact assessments seem to be an afterthought, carried out at the end of the process.

In addition, implementation by local authorities should be fully funded by central Government. For this ‘new burdens doctrine’ to be effective, the real impact and burden being imposed on local authorities must be accurately assessed. We question the rigour of such impact assessments. For instance, the impact assessment for the new policy statement on flood risk (PPS25) stated that the implementation of the new requirements would impose no extra costs on local authorities.

It is important to recognise that, as well as the requirements in national policy, many of the policy requirements which impact on applicants are derived from development plans at regional and local level. In that regard, we note that PPS1 already contains clear advice that, in preparing development plans, planning authorities should not impose disproportionate costs, in terms of environmental or social impacts, or by unnecessarily constraining otherwise beneficial economic or social development.

We want to ensure that the planning system operates effectively and is not increasingly overburdened with more and more central Government policy objectives. We propose that duplicative objectives should be removed and that there should be a rigorous testing process when additional policy objectives are proposed. On the rare occasions where a new issue can only be dealt with by the planning system, it is vital that the Government Department imposing any additional burden on local authorities funds the additional burden in full. It is also important that, in taking forward development plans, a similar approach is taken to ensure that any new policy or information requirements are related to planning, clear and proportionate.

Recommendation 16 – Government should avoid further expansion of national policy objectives to be delivered through the planning system and remove duplication with other regulatory regimes, by:

- using the planning policy review announced in the Planning White Paper to remove objectives which duplicate other controls;
- ensuring that no additional policy objectives are delivered through the planning system, unless there is a strong and compelling case to do so;
- publishing a set of challenging criteria against which it will test any additional policy objectives proposed to be delivered through the planning system.

In addition:

- the Better Regulation Executive (BRE) should thoroughly challenge impact assessments which involve the imposition of any new burden on the planning system, ensuring that they include an assessment of the impact of the additional burden on the whole of the planning system;
- the BRE should work with local planning authorities to ensure that the assessments of the implementation and enforcement burden are realistic;
- Government departments should fully fund the additional burdens imposed; and
- a similarly challenging approach should be taken in regard to the addition of new objectives and information requirements in development plans.

Then the policy framework needs to be refocused on the user

At present, much of the national policy framework is written, not in a way that serves the needs of the local authorities or the wider planning community, but rather to satisfy the needs of Whitehall policy-makers. The policy statements are written to cover all eventualities and often focus on the highest impact developments. Most statements deal with a single topic or sector, with no clear sense of the relative priority or weight to be accorded to the matter, as compared to other considerations. Nor is it often clear what should be addressed through plan making, or through what is, in effect, a national development control policy.

In our view, the Government must also use the national policy review to ensure that the policy is framed more clearly in terms of the processes through which the objectives will be delivered – principally the plan making and decision taking processes operated by local planning authorities.

In addition, it must specifically address two concerns we have identified in the way national policy impacts directly on the planning application process.

First, it should ensure that, when national development control policies are set out in national policy, for example in relation to the protection of areas of special value, they should be clearly identified, the scope for any regional or local flexibility should be defined, the degree of control should be proportionate, and the regulatory impact carefully assessed.

Second, if there is a specific requirement in national policy on an applicant to provide a supplementary impact assessment, or there is a requirement on a local planning authority to undertake consultation, this should be clearly flagged. Supporting guidance should be clear about where and when information/consultation may be required, and, when a requirement is triggered, about what information is needed – again ensuring a proportionate approach is taken.

The legislative framework is difficult to understand and can be over-prescriptive

There are two key issues. Firstly, the Town and Country Planning (General Development Procedure) Order 1995 (GDPO), which is the main legislation setting out the process for submitting and considering applications, has been subject to a series of amendments since it was issued to consolidate amendments made to the previous General Development Order.

Secondly, alongside the GDPO, there is a plethora of statutory instruments, circulars and guidance notes – some fully, some partly, still valid - which also set out key requirements in relation to the application process. The result is a legislative tangle that has got progressively worse with continual incremental changes introduced over the years.

The GDPO is very prescriptive on some issues (for example the form and content of certain letters, certificates and notices), but much less so on others (for example, requiring the local highway authority to be consulted on “*development likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving a classified road or proposed highway*”).

This opens the door to legal challenge and risk averse behaviour among those who need to implement and enforce the requirements

The planning process for a particular application is often subject to intense external scrutiny by those opposed to the development, and rival developers. Threat of judicial review, rather than the reality (for it is rare for a case to actually go to court), encourages risk averse behaviour. On the one hand, very prescriptive requirements provide more opportunities for legal challenge, but set out

clearly and unambiguously what needs to be done. On the other hand, non-prescriptive requirements create opportunities for inconsistencies in the way local planning authorities deal with the requirements, but offer less opportunity for challenges based on minor procedural error. A better balance is needed, in the secondary legislation, and in supporting guidance, to provide local planning authorities with clear rules, where these are needed to ensure consistency and efficiency, and outcome-focused principles, which encourage more flexibility and innovation.

As the response to the Call for Solutions from the ALBPO states, *“too often challenges in the High Court are about minor elements of procedure that add very little to the process overall. One reason for this is seen as an increased tendency to include greater levels of procedure in Statutory Instruments, rather than in non-statutory guidance such as circulars.”* It goes on to provide two examples:

1. GDPO Article 22 – requiring a summary of the reasons for granting planning permission and a summary of the policies to be on the decision notice. The ALBPO suggest scrapping the requirement and, if necessary, suggesting to councils that they append the report (committee or delegated) to the decision notice as good practice.
2. Specifying the content of Design and Access Statements in legislation. The requirement to produce Design and Access Statements could be laid down in the statute, and guidance (such as CABE's or similar) could be used for advice on its content.

We agree that the statutory framework for processing applications needs to be improved. The Government should:

- consolidate and simplify the General Development Procedure Order, and bring it together with all the other statutory instruments which deal with the processing of planning applications into a single procedural order;
- ensure the new procedural order avoids unnecessary prescription and detail;
- review the approach to statutory consultation arrangements in conjunction with the review of national policy. Through a combination of legislation and guidance it is vitally important to achieve a more targeted and proportionate approach to consultation;
- in bringing forward any subsequent substantive modifications to the procedural order, ensure that a single consolidated version of the procedure order is readily available; and
- put in place arrangements for all emerging proposals for procedural changes to be confidentially “road tested” by a small panel of leading practitioners in development management before they are finalised.

Finally, the implications of the new development management approach for the processing of applications need to be clearly set out.

There is a marked lack of guidance from Government on what a development management approach is, and what it means for the handing of applications of all scales. The planning policy statements do not include a clear explanation of what development management is or what Government policy for it is, although CLG is supporting the preparation of guidance by the Planning Advisory Service. Given its critical importance, we believe this is an area that needs addressing directly in national policy, ideally as an integral part of the new national policy framework.

A key element of development management policy should be a statement of the key principles (including those set out in an updated procedural order) that should frame the operation of the application process from pre-application discussions to the discharge of conditions.

Supporting this development management policy there should be good practice guides on each element of the process which – subject to overall editorial control – should be produced jointly by the key practitioner bodies. There are many such guides already in existence, but it would be helpful to consolidate these into a single set from end to end of the application process.

... development management is not the same as development control

As the recent discussion document on development management produced by the Planning Advisory Service⁷⁶ makes clear, development management is not just a new name for development control.

Development management is about putting spatial development plans into practice, and about authorities actively trying to promote sustainable development and deliver the vision in their plans. A development management approach needs a change in culture – away from reactive control of development to a more positive and proactive role for planning – and it will necessitate changes in structure and the allocation of resources, with a freer interplay between traditional development control and policy teams.

It is also important to note that a development management approach does not mean all developments have to be treated in the same way. As the recent discussion document and the PAS submission to the Call for Solutions makes clear, a development management approach to applications needs to be proportionate to the impact of the proposed development.

We have explored the implications of a proportionate development management approach for the processing of applications of different scale earlier in the report, but there is one important point in relation to implications for plan making which needs to be addressed here.

Consistent with the more positive and proactive approach demanded by a development management approach, the primary focus in spatial plan making at the local level is the preparation of a core strategy which includes: an overall vision for the area; strategic objectives for the area; and a delivery strategy which includes the identification of strategic sites. There is strong emphasis

⁷⁶ Planning Advisory Service (2008) *Development Management: guidance and discussion document*. Improvement and Development Agency, London.

placed on the need to move away from a traditional set of prescriptive rules set out in old style local plans, towards the testing of proposals against their ability to deliver the outcomes and vision identified in the plan.

Whilst this approach is appropriate for dealing with new large scale development, in our view, a different approach is necessary in relation to minor and householder development. Again, as PAS noted in their submission, the need for effective, helpful and clear principles of guidance should drive the programme of production of Supplementary Planning Documents. The guidance in such documents provides clarity and a degree of certainty for those proposing development, it provides a framework for consistent decisions, and it frees up officer resources to deal with more strategic developments.

Such guidance in relation to minor and householder developments is not inconsistent with the development management approach. Indeed, a survey we carried out of the local development schemes (the LDF project plans) of ten authorities⁷⁷ with adopted Core Strategies showed that eight of those had a specific “Development Control” or “Development Management” development policy document (DPD), providing precisely such guidance, and that one of the remaining two had both a Design supplementary planning document (SPD) and a Development Guidelines SPD.

The Government has set in place clear targets to ensure local planning authorities have the plans identified in their Local Development Statements in place by March 2011. This work must take priority. However, in so far as this does not include DPDs which set out clear guidance for small scale developments, we think that a second priority must be to ensure, either through DPDs or, where more appropriate, SPDs, that those proposing small scale householder and commercial development have a clear framework to guide them and to ensure consistent decision making.

We want the new planning policy framework from Government to be user-focused and targeted to ensure those who use it have clear and unambiguous guidance on how they are expected to achieve the Government’s objectives. Local government wants guidance that allows them flexibility and the ability to innovate. At the same time, however, vague guidance that does not differentiate between the importance of the impact of the development, and applies one size fits all solutions (often worst case scenario solutions) does not free local authorities; in contrast, it ties them into procedural and tick box approaches to ensure that they are seen to have dealt with all of the issues.

⁷⁷ South Hams, Hambleton, South Tyneside, Chelmsford, Tonbridge and Malling, Horsham, the Broads, Bracknell Forest, Plymouth and Middlesbrough

Recommendation 17 – Government should substantially overhaul and simplify both the national planning policy framework and the secondary legislation for the processing of planning applications to provide a clearer framework for a more positive approach to development management and to reduce unnecessary complexity and burdens for all parties engaged in the process.

To achieve this there should be:

- transformation of the national policy framework into one that is focused on the needs of the user, specifically by organising it around the processes of plan making and decision taking, rather than around broad policy objectives;
- clarity about whether any element of the policy framework is a national development control policy and whether or not there is scope for any regional or local flexibility;
- clarity and proportionality about any element of the policy framework which imposes a requirement on an applicant to provide a supplementary impact assessment or further information;
- consolidation and simplification of the existing legislative framework for processing applications, principally the General Development Procedure Order (GDPO), which removes unnecessary prescription and detail;
- as part of the new national policy framework, a clear statement by CLG about the key principles underpinning a move from development control to a development management approach; and
- a recognition by CLG, that as a second priority, after completion of the key Development Plan Documents required by Government to be in place by March 2011, local planning authorities should ensure that there is effective, helpful and clear plan-based guidance for those proposing householder and minor development.

Annex A - Terms of Reference

To consider how, within the context of the Government's objectives for the planning system and building on the reforms already announced, the planning application process can be improved for the benefit for all involved.

In particular to:

- Carry out an “end to end” review of a sample (including, in particular, major housing development, proposals by small and medium sized enterprises and renewable energy schemes) of applications for planning permission and associated consents as they move through the system, to establish where delays in processing applications occur. This would include a preliminary assessment of the use of planning performance agreements within the process and a consideration of how the operations of local planning authorities could be further improved through application of the principles of better regulation.*
- Consider the interaction between statutory consultees such as the Highways Agency, Environment Agency and Natural England and the planning development consent process and identify ways to make it operate effectively and efficiently;*
- Identify areas where there is scope for reducing administrative burdens, for example through further reduction of or streamlining in information requirements or extending the use of e-planning, consistent with efficient application of development controls and delivery of sustainable development;*
- Identify potential changes to ensure that the degree of planning control is proportionate to the potential impact of development on its environment (particularly through the use of permitted development rights and processes for dealing with minor appeals) and to ensure that planning resources are focused where they can deliver best value.*

Annex B - Engagement Process

Following the publication of: *Planning Applications: A faster and more responsive system. A Call for Solutions* (Communities & Local Government, June 2008), Joanna Killian, David Pretty and the Review Secretariat carried out further engagement with interested parties, through a series of bilateral meetings, events throughout the nine English regions and special meetings convened by, for example, the British Retail Consortium. We also conducted visits to; Local Planning Authorities, the Local Government Association and the Association of Electricity Producers to name a few. In addition, many organisations and individuals submitted formal responses to and comments about the Call for Solutions. Joanna Killian, David Pretty would like to express their gratitude to their Secretariat, their Sounding Board and all those who have contributed to this Review.

Sounding Board

Andrew Whittaker
Julian Lyon
Kate Barker
Keith Exford
Cllr Mike Haines
Phil Kirby
Robert Upton
Rosemarie MacQueen
Sir Stuart Lipton
Stephen Ashworth

Regional Events

The Killian Pretty Review facilitated nine workshops focusing on possible solutions and ideas regarding the problems, issues and seventeen questions as set out in the interim report: *Planning Applications: A faster and more responsive system. A Call for Solutions* (Communities and Local Government, June 2008)

London – Government Office for London, 14th July 2008

Leslie Gili-ross:	Architects Corporation Ltd.
Ian Fletcher:	Beechcroft Developments Ltd.
Lillian Harrison:	Brett Group Ltd.
Andrew Piper:	Brixton Society
Howard Sheppard:	Canary Wharf Group
Philip Hulett:	Crofton Place Group of Companies
Simon Brown:	Government Office for London

Martin Reason:	Greater London Authority (London Plan Team)
Carol Larkin:	Home Office
Martin Cowie:	London Borough of Barnet
Tim Cronin:	London Borough of Camden
Karen Fossett:	London Borough of Sutton
Nick Calder:	London Borough of Wandsworth
John Allen:	London Thames Gateway Development Corporation
Martin Stent:	Martin Stent
Nick Rogers:	Mid Sussex District Council
Gareth Morgan:	On behalf of Marks & Spencer plc
Javiera Maturana:	Planning Institute of Australia (UK Branch)
Marcus Howard:	Planning Potential Ltd.
Rebekah Paczek:	PPS Group Ltd.
Jessica Stewart:	Redwood Consulting Ltd.
Roger Shrimplin:	Royal Institute of British Architects (RIBA) Planning Group
David Prout:	The Royal Borough of Kensington & Chelsea
Dan Howson:	Warner Estate Holdings plc
Lisa Waters:	Waters Wye Associates Ltd.

West Midlands – Advantage West Midlands, 16th July 2008

Sue Manns:	ARUP
Joanne Russell:	Barton Willmore
John Culligan:	Birmingham City Council
Sam Stokes:	Calthorpe Estates
Andrea Caplan:	CJS Brook Smith Ltd.
Greg Mitchell:	Gallagher Estates Ltd.
Don Morgan:	Gazeley Ltd.
Dave Marr:	Government Office for the West Midlands
Ian Askew:	Highways Agency
Janice Allen:	Highways Agency
Jessie Stokes:	Mucklows Group plc
Sandra Newton:	Planning Aid West Midlands
Ailith Rutt:	Redditch Borough Council
Mark Sackett:	RPS Group plc

Mike Grundy:	Staffordshire County Council
Simon Birnbaum:	Tesco plc
Joanna Illingworth:	The Kenilworth Society
Mike Best:	Turley Associates Ltd.
Jeff Phillips:	Welsh Assembly
John Pattinson:	WMRA
Kath Smith:	Wychavon District Council

East Midlands – East Midlands Development Agency, 17th July 2008

Steve Simms:	Andrew Martin Associates Ltd.
Andrew Ward:	Andrew Ward Planning Ltd.
Joyce Brown:	Beeston Civic Society
Graham Clarke:	Bolsover District Council
Mark Weston:	British Horse Society
Paul Clarke:	Derby City Council
Bob Lambert:	Derbyshire & Nottinghamshire Chamber of Commerce
Jo Brown:	Derbyshire Wildlife Trust
Geoffrey Brown:	East Midlands Development Agency (EMDA)
Steven Harley:	East Midlands Development Agency (EMDA)
Tricia Pedlar:	East Midlands Development Agency (EMDA)
Dan Meredith:	E.On UK Ltd.
Gwyn Stubbings:	Gazeley UK Ltd.
David Nock:	Highways Agency
Andrew Granger:	Leicestershire Chamber of Commerce
Vicky Allen:	Leicestershire & Rutland Bridleways Association
Philip McCourt:	Milton Keynes Council
Dominic Kramer:	Morton Wykes Associates LLP
Marcus Popplewell:	National Audit Office
Tony Pierce:	North West Leicestershire District Council
Neil Pike:	Natural England
Jonathan Jenkin:	Planning Design Ltd.
Neil DeBlaquiere:	Quarry Products Association
Christian Mycock:	South Holland District Council
Tim Coleby:	Roger Tym & Partners

Yorkshire & Humber – Yorkshire Forward, 18th July 2008

Geoff Storey:	Aggregate/Quarry Products Association (QPA)
David Storrie:	David Storrie Associates Ltd.
Hamish Robertshaw:	DTZ plc
Ian Smith:	English Heritage
Chris Carr:	Federation of Master Builders
Chris Reache:	Hull City Council
Alison Howarth:	Leeds City Council
Phil Crabtree:	Leeds City Council
Mike Piet:	Leeds Civic Trust
David Corner:	National Audit Office
David Slater:	The Churches Regional Commission
John Pilgrim:	Yorkshire Forward
Martin Elliot:	Yorkshire & Humber Regional Assembly

North East – One North East, 21st July 2008

Roy Donson:	Barratt Homes plc North East
Nick Cook:	Bellway Ltd.
Jan Bessell:	Dickinson Dees LLP
Iain Armstrong:	Gateshead Council
Gavin Cordwell-Smith:	Hellens Homes Ltd.
David Corner:	National Audit Office
Raymond Bell:	Newcastle City Council
Lucy Butler:	Northumberland National Park Authority
Les Hall:	Northumbrian Water Ltd.
Wendy Hetherington:	One North East
Peter Jordan:	Persimmon plc
Michael Hodges:	Sherburn Group Ltd.
Kath Lawless:	South Tyneside District Council
Carol Straughan:	Stockton-on-Tees Borough Council
Helen Marks:	Storey SSP Ltd.
Gary Hudson:	UK Land Estates Ltd.
Sarah Eldridge:	Wear Valley District Council

North West – North West Development Agency, 22nd July 2008

Tom Mitchell:	Bury Metropolitan Borough Council
Ben Haywood:	Crewe & Nantwich Borough Council
Justin Cove:	DTZ plc
Philip Megson:	Lancashire County Council
John Knight:	Macclesfield Borough Council
John Twigg:	Manchester Airport Group plc
Anne Morgan:	Manchester City Council
Simon Dunn:	Manchester Civic Society
Felicity Harris:	Manchester Disabled Access Group
David Corner:	National Audit Office
Mandy North:	Natural England
Rob White:	NJL Consulting Ltd.
Peter Colleygarth:	North West Association of Civic Societies
Ian Wray:	North West Development Agency
John Litt:	North West Development Agency
Katheryn Mannion:	North West Development Agency
Lillian Burns:	North West Environment Link
Jeff Upton:	Preston City Council
Nick Horsley:	Quarry Products Association (QPA)
John Hickey:	Royal Institute of British Architects (RIBA) NW
Sue Tyldesley:	Sefton Metropolitan Borough Council
Mark Dickens:	St Helens Metropolitan Borough Council
Bob Tacey:	Tameside Metropolitan Borough Council
Richard Ellison:	Vale Royal Council
John Groves:	Warrington Borough Council
Robert Newton:	Welsh Assembly Government
Adrian Bull:	Westinghouse New Plants Business Ltd.
Penny McGinty:	Wigan Borough Council

South East – Government Office for the South East, 24th July 2008

Alistair Tolley:	Association of Electricity Producers
Tony Fooks:	Association of North Thames Amenity Societies

Julia Wallace:	Advisory Team for Large Applications (ATLAS)
Anthony Hawkins:	Bell Cornwell LLP
Adrian Brown:	Berkley Group plc
Kim Bennet:	Canterbury Council
John Avery:	City of Southampton Society
Martin Harrop:	Croudace Homes Ltd.
Matthew Utting:	DLP Consultants Ltd.
Martin Parker:	Elmbridge Town Council
Sam Howes:	English Historic Towns Forum
Julia Wallace:	English Partnerships
David Paine:	Government Office for the South East
Kevin Bown:	Government Office for the South East
Tim Dawes:	Guilford Borough Council
Robert Jackson:	Hart District Council / Hampshire & Isle of White Planning Officers' Group
Dr Alistair Tod:	Kent Federation of Amenity Societies
Mark Sullivan:	Leamington Society
Dagmar Hutt:	Planning Aid South East
Ray James:	Royal Institute of British Architects South East (RIBA SE)
David Ashe:	Royal Institute of British Architects South East (RIBA SE)
Sue Janota:	South East Regional Assembly
Madalene Winter:	Test Valley Borough Council
Delia Ives:	The Brighton Society
Lady Elizabeth Akenhead:	The British Horse Society
David Ogilvie:	The Guilford Society
Jim Kehoe:	Tunbridge Wells Council

South West – Government Office for the South West, 28th July 2008

Hugh Lucas:	Aggregate Industries UK Ltd.
Joanna Robinson:	Bath Preservation Trust
Alan Davies:	Bristol International Airport Ltd.
Julie Seaton:	Bristol City Council
Raymond Bowden:	Bristol Neighbourhood Planning
Karl Roberts:	Carrick District Council

Keith Frost:	Cemex UK Ltd.
Lesley Smith:	Devon APC
Andy Bowman:	Devon County Council
Don Gobbett:	Dorset County Council
Kate Little:	East Devon District Council
Robert Eaton:	Gloucester City Council
David Brown:	Government Office for the South West
Katie Tite:	Government Office for the South West
Gary Staddon:	Imerys Minerals Ltd.
James Harris:	JBP Associates Ltd.
George Muskett:	Kaolin & Ball Clay Association (UK)
Nicola Stinson:	Kerrier District Council
Mark Jones:	Natural England
Marshall Plummer:	North Cornwall District Council
Barry James:	North Somerset Council
Richard Kent:	North Somerset Council
Peter Dann:	P & J.D. Property Development Ltd.
Ben Linscott:	Planning Inspectorate (PINS)
Michael Gossage:	Royal Institute of British Architects (RIBA) SW
Dr Malcolm Tait:	Sheffield University
Peter Lacey:	Somerset APC
Barry Jones:	Somerset County Council
Simon Gale:	South Somerset Council
Peter Berman:	South West Civic Trust
Clive Smith:	South West Planning Aid
Alice Ordidge:	South West RDA
Tim Burton:	Taunton Dean Borough Council
Laura Mapstone:	The Bat Conservation Trust
Katy Fielding:	Wiltshire ALC

East of England – East of England Development Agency, 30th July 2008

Jason Bill:	Atelier Bill Collaborative Architects
Rita Burns:	BAA plc Stansted

Anthony Boswell:	Bedford Borough Council
Phil Kirby:	Broadland District Council
Brian Human:	Cambridge City Council / English Historic Towns Forum
Andrew Pym:	Country Land and Business Association (CLA)
Michael Brooks:	Campaign to Protect Rural England (CPRE) East
Richard Boyd:	Disability Essex
Richard Bindless:	East of England Business Group
Natalie Blaken:	East of England Development Agency
Stewart Mitchell:	Grundon Ltd. / Quarry Products Association (QPA)
Steve McLellan:	GSK plc
Andy Moffat:	Huntingdonshire District Council
Andrew Cann:	Hutchison Ports UK Ltd.
Caroline Green:	Local Government Association (LGA)
Howard Revill:	National Audit Office
Phil Gadd:	Norwich Airport
Peter Lee:	Peterborough Civic Society
Kirstin Smart:	Planning Aid East
Colin Cambell:	Savills plc
Nicola Bickerstaff:	Strutt & Parker LLP
Gary Pullan:	Tendring District Council
Jane Piper:	Terence O'Rourke Ltd.
Helen Phillips:	RPS Group plc
Nigel Hebden:	Thurrock Thames Gateway Development Corporation

Other Meetings with Stakeholders

Katie Marshall:	Adactus Housing Group Ltd.
Lynda Addison:	Director, Addison Associates Advisory Team for Large Applications (ATLAS)
Ian Collinson:	Advisory Team for Large Applications (ATLAS)
Kelvin Hinton:	Advisory Team for Large Applications (ATLAS)
Gary Craig:	Architectural Services Ltd.
Philip Bartram:	ASDA Stores Ltd.
John Assael:	Managing Director, Assael Architecture

Phil McCourt:	Association of Council Secretaries and Solicitors (ACSeS)
Alastair Tolley:	Association of Electricity Producers (AEP)
Martin Alder:	Association of Electricity Producers (AEP)
Michael Oxford:	Association of Local Government Ecologists Association of London Borough Planning Officers (ALBPO)
Cllr Andrew Finney:	Leader, Basingstoke & Deane Borough Council
Anthony Hawkins:	Bell Cornwell LLP
John Culligan:	Birmingham City Council
Cllr Paul Bettison:	Leader, Bracknell Forest Council
Peter Bridgman:	Bradford City Council
Edward Cooke:	British Retail Consortium (BRC)
Gemma Grimes:	British Wind Energy Association (BWEA)
Thomas Mitchell:	Bury Metropolitan Borough Council Business, Enterprise and Regulatory Reform (BERR) Calderdale District Council
Richard Moseley:	Campaign to Protect Rural England (CPRE)
Dr Andy Grossman:	CEDR Solve
Louise McLachlan:	CEDR Solve
Keith Holmes:	Chelmsford Borough Council Chartered Institute of Public Finance and Accountancy (CIPFA)
Kelvin Kift:	Circle Anglia Ltd. Civil Mediation Council
Michael Hammerson:	Civic Trust
Richard McCarthy:	Director General, Housing and Planning – Communities and Local Government
Steve Quartermain:	Chief Planner, Communities and Local Government
Hywel Lloyd:	Communities and Local Government
Philippa Lowe:	Crewe & Nantwich/Congleton Borough Council
Ben Haywood:	Crewe & Nantwich Borough Council
Cllr Tony Newman:	Leader of the Opposition, Croydon Council Department for Culture Media and Sport (DCMS) Department for the Environment and Rural Affairs (DEFRA) Department for Transport (DfT)
Dan Meredith:	E.On UK

Rod Constanti:	East Thames Group
Stephen Andrews:	Energy4All
Jane Walker:	English Heritage
Mark Southgate:	Environment Agency
Nick Hopwood:	Environment Agency
Barry Shaw:	Essex County Council
Peter O'Connell:	Federation of Master Builders
Anna-Maria Shrubshall:	Flagship Housing Group
Alison Fairman:	Government Office for London
Simon Brown:	Government Office for London
David Brown:	Government Office for the South West
Karen Fenton:	Great Places Housing Group
Cllr Jamie Carswell:	Deputy Mayor, Hackney Borough Council
Richard Glover:	Hammonds LLP
	Her Majesty's Treasury
	Home Office
Tom Maddison:	Health and Safety Executive
Steve Hancocks:	Managing Director, Higgins Homes
Adrian Fisher:	High Peak Borough Council
Janice Allen:	Highways Agency
Graeme Geddes:	Housing Corporation
John Pickstone:	Housing Corporation
Roger Hutton:	Howard Hutton Associates
Barrington Wilks:	Hyde Housing Association
	Jim Martin – Architect/Agent
	Kathryn Finnan – Agent
	Keith Butler – Agent
Mike Willmott:	Kennet District Council
Eric Woulds:	Kirklees Council
Maxine Fitzpatrick:	Knowsley Housing Trust (KHT)
Francis Salway:	Chief Executive, Land Securities
Phil Crabtree:	Leeds City Council
	Local Government Association (LGA) Members
Cllr Ian Mearns:	Vice Chair of LGA Regeneration & Transport Board, Local Government Association (LGA)

Caroline Green:	Local Government Association (LGA)
Mark Norris:	Local Government Association (LGA)
Sandra Brown:	Local Government Association (LGA)
Martin Cowie:	London Borough of Barnet London Borough of Camden
Tim Cronin:	London Borough of Camden
Jales Tippell:	London Borough of Hillingdon London Borough of Sutton
Karen Fossett:	London Borough of Sutton
Mike Kiely:	London Borough of Tower Hamlets & Association of London Borough Planning Officers (ALPBO)
John Knight:	Macclesfield Borough Council
Michael Welbank:	Mediation Academic Ministry of Defence (Defence Estates)
Dave Mahon:	NALC
David Corner:	National Audit Office
Howard Revill:	National Audit Office
Marcus Poppelwell:	National Audit Office
Tajjinder Bharna:	National Mediation Helpline
Andrew Canning-Trigg:	Natural England
Elaine Moulton:	Newcastle-Under-Lyme Borough Council
Robert Ray:	Newspaper Society
Justin Fenton:	Newspaper Society
Harry Baird:	Northern Ireland Executive
Raymond Armstrong:	Northern Ireland Executive
Trevor Gordon:	Northern Ireland Executive
Kate Davies:	Chief Executive, Notting Hill Housing Trust
John Ainslie:	NPower Renewables
Geoff Willerton:	Oldham Council
Mike Farley:	Group Chief Executive, Persimmon Homes
Robin Purchas QC:	Chairman, Planning & Environmental Bar Association (PEBA) Planning Advisory Service (PAS)
Ed Watson:	Planning Advisory Service (PAS)
Phillipa Silcock:	Planning Advisory Service (PAS)

Richard Crawley:	Planning Advisory Service (PAS)
Barry Pearce:	Planning Aid England
Dave Chetwyn:	Planning Aid England
Patrick Anderson:	Planning Aid London Planning Aid Volunteers (Yorkshire & Humber) Planning and Development Association
Katrine Sporle:	Planning Inspectorate (PINS)
Leonora Rozee:	Planning Inspectorate (PINS)
Josephine Fox:	Planning Inspectorate (PINS)
Christopher Hough:	Planning Mediation Ltd. Planning Officers Society (POS) Members
Bob Bennett:	Planning Officers Society (POS)
Adam Telford:	Planning Portal
Stuart Mockford:	Planning Portal
Aled Herbert:	Planning Portal
Jeff Upton:	Preston City Council
Kevin Ashman	Prudential Property Investment Managers Ltd. (PRUPIM)
Tina Christou	Prudential Property Investment Managers Ltd. (PRUPIM)
Ken Hobden:	Director of Mineral Planning, Quarry Products Association (QPA)
John Tutte:	Chairman, Redrow plc
Cllr Martin Elengorn:	Cabinet Member for the Environment, Richmond upon Thames Borough Council
Roger Rippon:	CEO, Rippon Development Services
Mark Robinson:	Rochdale Metropolitan Borough Council
Peter Stewart:	Royal Institute of British Architects (RIBA)
Roger Shrimplin:	Royal Institute of British Architects (RIBA)
Ewan Willars:	Royal Institute of British Architects (RIBA)
Martin Burns:	Royal Institution of Chartered Surveyors (RICS)
Carol Goodall:	Dispute Resolution Service, (RICS)
Carl Simms:	Royal Society for the Protection of Birds (RSPB)
Janet O'Neill:	President, Royal Town Planning Institute (RTPI) / CEO, O'Neill Associates
Alan Cameron:	Scottish Executive

Kristen Anderson:	Scottish Executive
John McNairney:	Scottish Executive
Robert Upton:	Secretary General, Royal Town Planning Institute (RTPI)
James Gibson:	Sovereign Housing Association
Simon Gale:	South Somerset District Council
Kath Lawless:	South Tyneside District Council
Tony Carey	Managing Director, St. George plc
Mark Dickens:	St. Helens Council
Akin Durowoju:	Swan Housing Association
Martin Trehwella:	Swindon Borough Council
Rob Jones:	Swindon Borough Council
Dave Potter:	Swindon Borough Council
Andrew Wiseman:	Chief Executive, Telford Homes
John Timothy:	Tesco plc
Anne Rehill:	The Standards Board for England
Mark Price:	Theatres Trust
	UK Trade & Investment
Rupert Dick:	UK Villages
Malcolm Phillips:	Urban Vision
Cllr Jim Ketteridge:	Leader, Uttlesford District Council
Prof. John Seddon:	Vanguard Consulting
Lisa Waters:	Waters Wye Associates
Jeff Phillips:	Welsh Assembly Government
David Palmer:	Westbury Partnerships
Penny McGinty:	Wigan Council
	Yorkshire & Humber Royal Town Planning Institute (RTPI)

Formal Responses to the Call for Solutions

Administrative Justice & Tribunals Council
Advisory Team for Large Applications (ATLAS)
Aggregate Industries UK Ltd.
Alnwick Civic Society
Andrew Martin Associates Ltd.
Arnold White Estates Ltd.

ASDA Stores Ltd.
Association of Consultant Architects (ACA)
Association of Electricity Producers
Association of Local Government Archaeology Officers (ALGAO)
Association of London Borough Planning Officers (ALBPO)
Atelier Bill Collaborative Architects
Banks Developments Ltd.
Barratt Homes plc
Bat Conservation Trust
Bath Preservation Trust
Bedford Borough Council
British Aggregates Association (BAA)
British Airports Authority (BAA) Ltd.
British Property Federation (BPF)
British Wind Energy Association (BWEA)
Broadland District Council
Business in Sport & Leisure Ltd.
Butler and Young Group Ltd.
Campaign for the Protection of Rural England (CPRE) Northamptonshire
Campaign to Protect Rural England (CPRE)
Canterbury City Council
Capital Enterprise Centres Ltd.
Civic Trust
Cllr Bill Dick – Castle Point Borough Council
Cllr Horace Mitchell - Basingstoke & Deane Borough Council
Commission for Architecture and the Built Environment (CABE)
Confederation of British Industry (CBI)
Confederation of British Industry (CBI) Minerals Group
Construction Products Association
Country Land and Business Association (CLA)
County Durham Association of Local Councils
Cranbourne Chase & West Wiltshire Downs AONB
Creative Process
CSJ Brooke Smith Ltd.

Dave Stubbs - Crime Prevention Design Advisor
Devon Conservation Forum
Devon County Council
DMH Stallard LLP
Dorset County Council
E.On UK Ltd.
East of England Association of Civic Trust Societies
Eastbourne Borough Council
English Heritage
English Regions Network
Environmental Services Association (ESA) Ltd.
Equality and Human Rights Commission
ESP-Sim Project
Essex County Council
Favoured Locations Ltd.
Federation of Master Builders
Fellows Associates
Forest-Heath Council
Gary Craig Architectural Services Ltd.
Gazeley
Gordon Bradford
Graeme Stagg & Kate Macmillan
Graham Clarke - Officer Response, Bolsover District Council
Greater Manchester Police
Hawkridge Developments Ltd.
Highways Agency
Home Builders Federation (HBF)
Howard Hutton Associates
Institute of Directors (IoD)
J & J Design Ltd.
Joanna Illingworth
John Amos
John Hobden Home Design Ltd.
John Phillips

John Rawlins
Joint RDA Response
Keith Baker Design & Management
Kenilworth Society
Kennet Borough Council
Kent Federation of Amenity Societies
La Farge Cement plc
Lambert Hampton Smith Ltd. - on behalf of the Ministry of Justice
Landscape & Ecology Dept., Ashford Council
Landscape Institute
Law Society
Leeds City Council
Leicestershire County Council
Lewes District Council
Local Government Association (LGA)
London Borough of Barnet
London Borough of Camden
London Borough of Ealing
London Borough of Merton
Major Developers Group
Maldon Society
Manchester Airport Group plc
Manchester City Council
Marks & Spencer plc
MB-Design
McCarthy & Stone
Mobile Operators Association
Morpeth Town Council
Mr & Mrs Barnard
National Grid plc
National Housing Federation
Natural England
NE Federation of Civic and Amenity Societies
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Royal Tunbridge Wells Town Forum
Ruscombe Parish Council
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SEGRO plc
St Helens Council
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Strutt and Parker Planning LLP
Taylor Wimpey plc
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Tendring District Council
Tesco Stores Ltd
Thames Water plc
The Newspaper Society
The Theatres Trust
Tiverton Civic Society
Town and Country Planning Association (TCPA)
Turley Associates
Unex Group
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University of Westminster - Tim Edmundson
Uttlesford District Council
WBB Minerals
Welsh Power
Wendy Woollaston
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